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CURRENT WATER AND POWER LEGISLATION

HEARING

BEFORE THE

SUBCOMMITTEE ON WATER AND POWER

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

ON

S. 177	**S. 1473**
S. 1474	**S. 1929**
S. 2370	**H.R. 1139**
H.R. 1855	**H.R. 2085**
H.R. 2381	

FEBRUARY 28, 2008

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CURRENT WATER AND POWER LEGISLATION

THURSDAY, FEBRUARY 28, 2008

U.S. SENATE,
SUBCOMMITTEE ON WATER AND POWER,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2 p.m. in room SD–366, Dirksen Senate Office Building, Hon. Tim Johnson presiding.

OPENING STATEMENT OF HON. TIM JOHNSON, U.S. SENATOR FROM SOUTH DAKOTA

Senator JOHNSON. I call to order this hearing before the Water and Power Subcommittee. It's my pleasure to welcome everyone to this afternoon's hearing. We have two panels of witnesses here today—several who have traveled across the country to provide us their views. Thank you for your efforts.

We also have Congressman Radanovich of California here to speak on behalf of a bill that he was sponsoring.

The following bills are before us today:

One, S. 177 and H.R. 2085 would authorize the Bureau of Reclamation to transfer title to certain facilities that are part of the McGee Creek Projects in Oklahoma.

Two, S. 1473 and H.R. 1855 would authorize Reclamation to participate in the design and construction of the Madera Water Supply Enhancement Project in California.

Three, S. 1474 and H.R. 1139 also address water supply issues in California for authorizing Reclamation to participate in the design and the construction of the Riverside Corona Water Supply Project.

Four, S. 1929 would authorize a feasibility study to evaluate alternatives to augment the water supply in the Sierra Vista Watershed in Arizona.

Five, S. 2370 would clear title to certain parcels of land associated with the Middle Rio Grande Project in New Mexico.

Six, H.R. 2381 establishes a scientific program within the Department of the Interior to manage sediment and nutrient loss in the Upper Mississippi River Basin.

These bills illustrate the ongoing need that exists for the Federal Government to work in close partnership with States and local entities to address the serious water issues facing many communities. I look forward to hearing more about these issues today, and working with the members of the committee to try and enact some of these bills into law.

I'll now turn it over to Senator Corker, the ranking member on the subcommittee, for an opening statement.

[The prepared statement of Senator Kyl follows:]

PREPARED STATEMENT OF HON. JON KYL, U.S. SENATOR FROM ARIZONA

Mr. Chairman, Members of the Subcommittee, thank you for holding this hearing on S. 1929, the Sierra Vista Subwatershed Feasibility Study Act. introduced this bill, along with Senator McCain, in August 2007 to authorize the Secretary of the Interior to study alternatives to augment the water supplies in southern Arizona in the Sierra Vista Subwatershed. This critical region is home to a congressionally protected riparian area known as the San Pedro Riparian National Conservation Area (SPRNCA), the U.S. Army Intelligence Center at Fort Huachuca, and nearly 76,000 residents.

SPRNCA, which protects nearly 43 miles of the San Pedro River, serves as a principal passage for the migration of approximately four million birds. It also provides crucial habitat for 100 species of birds, 81 species of mammals, 43 species of reptiles and amphibians, and two threatened species of native fish. The Nature Conservancy has called the area one of the "last great places on earth."

Fort Huachuca, which is adjacent to SPRNCA, plays a critical role in this country's national security by, among other things, training soldiers in military intelligence. It also is the largest employer in the area, contributing greatly to the economy of Cochise County and the State of Arizona.

In recent years, the Fort has done an exemplary job of implementing water conservation and recharge measures as part of its responsibilities under the Endangered Species Act. Indeed, since 1995, it has reduced its groundwater pumping by more than 50 percent.

Nevertheless, water levels in certain areas of the regional aquifer in the Sierra Vista Subwatershed are still declining due to natural causes and development near Sierra Vista. Because SPRNCA and the Fort could be negatively affected by these declining water levels, a 2007 U.S. Bureau of Reclamation appraisal level study concluded that augmenting the local water supply is necessary. To that end, Reclamation's study recommended several augmentation alternatives for further study, all of which are supported by the Upper San Pedro Partnership, a congressionally recognized consortium of 21 local, state, and federal agencies and private organizations.

S. 1929 would authorize the Secretary to conduct a feasibility study of the augmentation alternatives recommended in the preliminary appraisal level report for further study. The legislation would also authorize appropriations for the federal share of the study's costs. Importantly, the non-federal cost share would be at least 55 percent as opposed to the standard 50 percent, indicating the non federal parties' strong commitment to the study.

The feasibility study that would be authorized under this legislation is the next step in the process of determining how to best address the water challenges facing the Sierra Vista Subwatershed. Consequently, I hope that the Subcommittee will work with Senator McCain and me in securing the bill's swift passage in the 110th Congress.

STATEMENT OF HON. BOB CORKER, U.S. SENATOR FROM TENNESSEE

Senator CORKER. Mr. Chairman, I want to thank you for having this hearing. I want to just tell you, I'm so glad you're back at the helm.

Senator JOHNSON. Yes.

Senator CORKER. Thank you very much for being here. I know the bills that are under consideration today will serve a number of purposes that are important to members of this committee and all members of the Senate. Several regions of the country, including my home State, have been affected by drought. Not just this year, but for many years.

Any legislation that will assist these areas by improving and expanding their water infrastructure availability certainly deserves our full attention. So I want to thank all the witnesses, especially the Congressman coming over. I've got a conflict in 10 minutes. I

hope I get to hear most of what you have to say, but thank you very much for being here, and certainly, for all the witnesses. Thank you, Mr. Chairman.

Senator JOHNSON. If there are no other statements, we'll proceed to Congressman Radanovich, and then to our witnesses.

It's a pleasure to have you here, Congressman Radanovich. Please go ahead and make your statement on the Madera Water Supply Enhancement Act.

STATEMENT OF HON. GEORGE RADANOVICH, U.S. REPRESENTATIVE FROM CALIFORNIA

Mr. RADANOVICH. Thank you, Mr. Chairman. It's a pleasure to be before your committee. Thank you, Ranking Member Senator Corker, as well. I'm going to testify on behalf of Senate Bill 1473, which is the Madera Water Supply Enhancement Act.

The Act authorizes the Bureau of Reclamation to participate in the design and construction of the Madera Water Supply and Enhancement Projects, an important water bank, which will help improve the water supply in California's San Joaquin Valley. This water bank will be located on a 13,000-acre parcel, called Madera Ranch, that is ideal for percolating water from the surface to the aquifer for storage and valuable habitat for numerous species in native grasslands.

This project will allow the Madera Irrigation District to bank excess water and rain, accumulating in wet years and to provide a source of water in dry years. The Madera Irrigation District is deeply invested in making this project a reality. They've invested over $40 million to acquire the land and plan this project.

In addition to the numerous studies undertaken in the past 10 years, verifying the feasibility and the environmental impact, this project is ready to immediately move in to the construction phase with the passage of this legislation.

Faced with a future of long-term drought, reduced water exports from the Sacramento/San Joaquin delta, and detrimental judicial decisions that threaten water supply, California's San Joaquin Valley needs water supply projects such as this now more than ever. America relies on the productivity of the San Joaquin Valley for much of its food supply. The San Joaquin Valley and—excuse me, for much of its food supply, and water is its lifeblood.

The San Joaquin Valley's economic wellbeing depends on having a secure, sufficient, and reliable water supply. The Madera Water Supply Enhancement Project increases water supply, providing groundwater resource protection and litigates the water supply impacts of the San Joaquin River Restoration Project.

As the State continues their dialog and debate over the larger issues of water supply and storage, we must step forward and make the Madera water bank a reality. I was pleased to help guide H.R. 1855, the companion legislation, through the House of Representatives, where it passed last year in October 22.

I do now urge support and ask for your assistance in moving this through the Senate to expand the water supply opportunities for California's San Joaquin Valley. I would end in stating that this is a project that enjoys broad-based support—not only from the devel-

opment, but also the environmental community—and is much needed.

So any help I can get getting this to the Senate, I'd sure appreciate it.

[The prepared statement of Mr. Radanovich follows:]

PREPARED STATEMENT OF HON. GEORGE RADANOVICH, U.S. REPRESENTATIVE FROM CALIFORNIA

Chairman Johnson and Ranking Member Corker, thank you for holding this hearing on S. 1473/H.R. 1855 the Madera Water Supply Enhancement Act. I am pleased to testify before you in support of such an important project located in my Congressional district in Madera, California.

The Madera Water Supply Enhancement Act authorized the Bureau of Reclamation to participate in the design and construction of the Madera Water Supply and Enhancement Project, an important water bank which will help improve water supply in California's San Joaquin Valley. The Madera Water Supply and Enhancement Project will be located on the 13,000-acre Madera Ranch, land that is ideal for percolating water from the surface to the aquifer for storage and valuable habitat for numerous species and native grasslands. This project will allow the Madera Irrigation District to bank excess water and rain accumulating in wet years and to provide a source of water in dry years.

The Madera Irrigation District is deeply invested in making this project a reality. They have invested over $40 million to acquire the land and plan this project, in addition to the numerous studies undertaken in the past ten years verifying the feasibility and environmental impacts. This project is ready to immediately move into the construction phase with the passage of this legislation.

Faced with a future of long term drought, reduced water exports from the Sacramento-San Joaquin Delta, and detrimental judicial decisions that reduce water supply, California's San Joaquin Valley needs water supply projects such as this, now more than ever. Our nation relies on the productivity of the San Joaquin Valley for much of our food supply. As an agriculturally based region, water is the lifeblood of the San Joaquin Valley and the economic well-being depends on having a secure, sufficient and reliable water supply. The Madera Water Supply Enhancement Project increases water supply, provides groundwater resource protection, and mitigates the water supply impacts of the San Joaquin River restoration project. As the State continues their dialog and debate over the larger issues of water supply and storage, we must step forward and make the Madera water bank a reality.

I was pleased to help guide H.R. 1855 through the House of Representatives, where it passed on October 22, 2007. I now urge your support and assistance in moving this legislation through the Senate, to expand the water supply opportunities in California's San Joaquin Valley.

Senator JOHNSON. Thank you again, Representative Radanovich, for providing your views. We'll look forward to taking a closer look at your legislation. I'd now like to ask our first panelist to come up and take a seat at the witness table. Thank you.

Before starting, I'd like to quickly note that the subcommittee has received additional written testimony on several of the bills before us today. The testimony, as well as the written submissions of the witnesses here today, will be made part of the official hearing record.

The first panel consists of one witness, representing the Administration's views on the bills before us today. We have Robert Quint, Director of Operations of the Bureau of Reclamation. Thank you for being here today, Mr. Quint. Please provide a summary of your written testimony. Following that, we'll have a brief question and answer period, and then move on to the second panel.

STATEMENT OF ROBERT J. QUINT, DIRECTOR OF OPERATIONS, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Mr. QUINT. Thank you, Mr. Chairman, and it's good to have you back chairing this subcommittee.

Senator JOHNSON. Yes.

Mr. QUINT. Mr. Chairman, and members of subcommittee, I am Robert Quint, Director of Operations for the Bureau of Reclamation. Thank you for the opportunity to appear today to present the Administration's views on several Reclamation-related bills pending before your subcommittee.

Also, I'd like to note that the U.S. Geological Survey has provided a statement for the record on H.R. 2381 that reflects support for the bill's goal of providing sound science for the managing of sediment and nutrient loss in the Upper Missouri River Basin.

I'd like to introduce, to my left, Timothy Miller, Chief of the USGS Office of Water Quality, who is here with me to answer any questions you may have on this particular legislation.

The Department, as you mentioned, has already submitted written statements on the five other bills, so I'd be happy to keep my verbal remarks brief. I'll discuss the legislation in the order that they are in the hearing announcement.

On S. 177/H.R. 2885, which would authorize the Secretary of Interior to convey certain lands and facilities of the McGee Creek Project in Oklahoma to McGee Creek Authority, the Administration supports this bill, and we thank the subcommittee for considering it today. The Department of Interior has an active title transfer program and supports transferring ownership of certain Reclamation Project facilities to non-Federal entities.

Initial discussions on this transfer began in 1997. Reclamation and the McGee Creek Authority have been working collaboratively to lay the groundwork for this title transfer since that time. To cooperative efforts of the Authority, all elements required by Reclamation for the title transfer have been successfully addressed for the McGee Creek Project. The Authority has provided funding for Reclamation to complete the necessary environmental, legal, and historic preservation documentation for this transfer.

The costs of lands, buildings, and facilities to be transferred have already been repaid, pursuant to the Authority's original Repayment Contract. There is no ongoing revenue streams associated with these lands and facilities. As such, no additional payment for this transfer is required.

In addition, this title transfer protects the financial interest of the United States. Transferring title of these facilities will reduce the number of administrative burdens on Reclamation. Again, we support passage of S. 177, as it represents a cooperative and cost-effective process that will provide a benefit to the Authority and Reclamation.

The next bill, S. 1473/H.R. 1855, the Madera Water Supply Enhancement Act would authorize the Secretary to enter into a cooperative agreement with Madera Irrigation District to support the Madera Water Supply Enhancement Project. While Reclamation has been an active partner with the Madera Irrigation District and

other entities in studying this project, the Department cannot support this bill at this time.

Reclamation in the State of California have studied the Madera Water Supply Enhancement Project. In March 2007, Reclamation published an appraisal report for this project, which is transmitted to Congress. The cost for the project is estimated to be approximately $91 million. Because a feasibility study for the Madera Water Supply Enhancement Program has not been completed, it is premature to authorize Federal implementation at this time.

Moreover, the project would directly compete for funding with other currently authorized projects in the CVP service area, including several storage studies authorized under the CALFED Program, standing obligations to complete multimillion-dollar backlogs in authorized world water projects, aging infrastructure requiring rehabilitation, ongoing water recycling projects, and other fiscal pressures. In light of the concerns expressed above, the Department cannot support S. 1473 at this time.

On S. 1474/H.R. 1139, which would authorize the Secretary of Interior to participate with the Western Municipal Water District in the planning, design, and construction of a water supply project known as the Riverside-Corona Feeder, for reasons described below, the Department cannot support this bill in its present form.

This project would withdraw water from the San Bernardino Valley groundwater aquifers that are replenished during wet years from local runoff, regulated releases from the Seven Oaks Reservoir, and water from the State Water Project. It would consist of a number of wells and connecting pipelines, which would deliver up to 40,000 acre feet of water annually to communities in Western Riverside County.

Mr. Chairman, while the Department encourages the type of resourceful utilization of local water supplies this bill calls for, and it has a potential for reducing the use of important supplies from the Colorado River and the California Bay Delta, we do not support S. 1474 in its present form. We understand that feasibility level studies have not yet been completed for this project. Without a proper analysis to do this feasibility level of detail, we cannot support Reclamation's participation in design and construction activities.

In fiscal year 2008, Congress appropriated additional planning fund beyond Reclamation's fiscal year 2008 request for continued involvement with the District as they finalized their feasibility work. Reclamation will continue to work with the officials from the Western Municipal Water District on the project and provide them guidance for their feasibility analysis and the appropriate level of need for compliance that would be needed.

S. 1929/H.R. 3328, which would authorize the Secretary of Interior, acting through the Commissioner of Reclamation, to conduct a feasibility study of water augmentation alternatives in the Sierra Vista Subwatershed, located in Southeastern Arizona, the Department does not support the proposed legislation at this time.

This legislation would provide for a Federal funding of $1.26 million, with a local share of 55 percent, for an estimated total cost of $2.8 million. The Upper San Pedro Partnership, a consortium of

Federal, State, local, and private groups, was established in 1988 to address water needs in the Sierra Vista Watershed.

Reclamation became a consortium member in 2004. At the request of the partnership, Reclamation prepared an appraisal report that was completed in June 2007. A total of 14 augmentation alternatives were evaluated, resulting in a partnership selecting 3 alternatives for further analysis.

The appraisal report also identified significant legal and institutional issues that need to be addressed by local stakeholders in order to make progress. For example, the partnership is not a traditional government entity in that its membership consists of representatives from Federal, State, and local governments, as well as nonprofit organizations and local businesses.

It has no legal authority to construct, operate, or repay capital costs. Because of this, Reclamation cannot legally contract with the partnership. Alternatives under consideration would need to be implemented by an entity other then the partnership. Upon resolution of this and other outstanding issues, Reclamation suggests that a feasibility study would be the next logical step for the partnership.

Again, while Reclamation does not support this legislation at this time, we fully understand the tremendous importance of these issues to local stakeholders, the State, and the Federal Government. Reclamation will continue to work with the partnership on these issues.

Finally, S. 2370 would authorize the transfer of title to real property in New Mexico, associated with the Middle Rio Grande Project. The Department is not opposed to the concept of transferring ownership of lands described in this legislation to another entity. Given current circumstance, including ongoing litigation, the lack of any excess lands determination, or an appraisal of land identified for transfer, the Department feels that this legislation is premature.

The Department has been a defendant in litigation that saw quiet titles to properties associated with the Middle Rio Grande Project. However, title claims by the United States to this land in question have been vindicated by the U.S. District Court, and are now under appeal in the Tenth Circuit.

In light of the litigation and the uncertainty that surrounded the title questions before the District Court's recent decision, the city of Albuquerque initiated improvements on this property under a license agreement with the Reclamation. The city of Albuquerque developed the Albuquerque BioPark and associated properties for public uses that benefit Albuquerque citizens.

The manner in which the city of Albuquerque obtained the property from the Middle Grande Conservancy District was inconsistent with established procedures for conveying title to Federal property to another party. Nevertheless, the Department does not believe this was a result of carelessness or neglect on the part of the city of Albuquerque, nor does the Department believe this was an intentional encumbrance of Federal property. However, until the litigation is settled and for the other reasons given, we feel this legislation is premature.

Mr. Chairman, that concludes my testimony. Thank you for the opportunity to comment on this pending legislation. We'd be happy to answer any questions you might have.

[The prepared statement of Mr. Quint follows:]

PREPARED STATEMENT OF ROBERT J. QUINT, DIRECTOR OF OPERATIONS, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

S. 177

Mr. Chairman and members of the Subcommittee, I am Robert J. Quint, Director of Operations for the Bureau of Reclamation. I am pleased to appear before this Subcommittee to provide testimony on S. 177, legislation to authorize the Secretary of the Interior to convey certain lands and facilities of the McGee Creek Project in Oklahoma to the McGee Creek Authority (Authority). The Administration supports this bill and we thank the committee for considering it today.

The Department of the Interior has an active title transfer program and supports transferring ownership of certain Reclamation project facilities to non-Federal entities. Initial discussions on this transfer began in 1997, and Reclamation and the McGee Creek Authority have been working collaboratively to lay the groundwork for this title transfer since that time. Reclamation and the Authority entered into a Memorandum of Agreement (MOA) in 1998 for the purpose of defining the activities and responsibilities necessary to move forward with the proposed transfer. Before the transfer could be finalized and the necessary legislation could be proposed, the agreement expired in September 2002. In 2006, the Authority again expressed interest in the transfer and in April of that year, a new MOA was executed.

Through cooperative efforts with the Authority, all elements required by Reclamation for title transfer have been successfully addressed for the McGee Creek project. The Authority has provided funding for Reclamation to complete the necessary environmental, legal, and historic preservation documentation for this transfer, including a Final Environmental Assessment and Finding of No Significant Impact, concurrence from the State Historic Preservation Officer, a hazardous materials clearance, and conveyance documents.

The costs of the lands, buildings and facilities to be transferred have already been repaid pursuant to the Authority's original repayment contract. All of the lands to be transferred were acquired by Reclamation when the project was built and the original repayment contract incorporated acquisition costs together with the costs associated with the construction of the project facilities and associated easements, lands and buildings. There are no ongoing revenue streams associated with these lands and facilities. As such, no additional payment for this transfer is required.

In addition, this title transfer protects the financial interest of the United States. Transferring title to these facilities will reduce a number of administrative burdens on Reclamation including periodic facility reviews that are currently required because it is a Reclamation owned facility, and the processing of paperwork that currently consumes significant staff time. It will also ensure that long term responsibility for the operation, maintenance, management, and regulation, as well as liability, for the transferred lands and facilities will rest with the Authority.

Again, we support passage of S. 177 and thank the subcommittee for holding this hearing. It reflects a cooperative and cost effective process that will provide a benefit to the Authority and Reclamation.

This concludes my testimony and I would be pleased to answer any questions.

S. 1473

Mr. Chairman and members of the subcommittee, I am Robert J. Quint, Director of Operations, Bureau of Reclamation. I am pleased to present the Department of the Interior's views on S. 1473, the Madera Water Supply Enhancement Act. While Reclamation has been an active partner with the Madera Irrigation District and other entities in studying this project, the Department does not support S. 1473.

Reclamation and the state of California have studied the Madera Water Supply Enhancement Project. The purpose of this project is to reduce the overdraft of the area's groundwater aquifer and improve water supply reliability. In March 2007, Reclamation published an appraisal report for this project and transmitted it to Congress. Appraisal reports are based upon existing information to determine whether additional studies to determine Federal feasibility are warranted.

Reclamation's March 2007 appraisal report identified several alternatives, including delineation of groundwater recharge areas; engineered recharge basins on the Madera Ranch; and direct recharge from the San Joaquin and Fresno Rivers. The

cost for the project is estimated at approximately $91 million, and section 5(b) of the legislation commits the Federal government to paying 25 percent of project costs. The total storage space is 250,000 acre-feet. However, it is important to note that while a maximum of 55,000 acre-feet can be moved to and from storage in any given year, the average annual water yield is estimated to be 20,000 acre-feet per year. Altogether, an appraisal level estimate is that this project would provide water at a cost of $420 per acre-foot.

Although the bill lists eighteen studies that have been completed relating to this project, none of these studies meet Reclamation's feasibility study criteria. Because Reclamation has not completed a feasibility study of the Madera Water Supply Enhancement Project, it is premature to authorize Federal implementation at this time. Moreover, this project would directly compete for funding with other currently authorized projects in the CVP service area, including several storage studies authorized under the CALFED Program (PL 108-361).

Reclamation continues to emphasize completion of ongoing projects and the safe and effective maintenance of its aging infrastructure. Reclamation must prioritize its program activities to ensure that the most worthy projects receive funding. In light of these needs, Reclamation allocates funds to projects and programs based on objective and performance-based criteria to most effectively implement Reclamation's programs and its management responsibilities for the water and power infrastructure in the West.

The Administration appreciates local efforts to address current and future water issues. However, in light of the concerns expressed above, the Department does not support S. 1473. That concludes my prepared remarks. I would be pleased to answer any questions.

S. 1474

Mr. Chairman and Members of the Subcommittee, I am Robert J. Quint, Director of Operations, Bureau of Reclamation. I am pleased to be here today to present the views of the Department of the Interior on S. 1474, a bill to authorize a water supply project in Southern California. For reasons described below, the Department does not support S. 1474.

This bill would authorize the Secretary of the Interior to participate with the Western Municipal Water District in the planning, design, and construction of a water supply project known as the Riverside-Corona Feeder. It provides for Federal funding for this project of not more than 25 percent of the total project cost (including funding for planning studies), not to exceed $50 million.

This project would withdraw water from San Bernardino Valley groundwater aquifers that are replenished during wet years from local runoff, regulated releases from Seven Oaks Reservoir, and water from the State Water Project. It would consist of a number of wells and connecting pipelines, which would deliver up to 40,000 acre-feet of water annually to communities in western Riverside County. Project benefits include local drought protection, better groundwater management, and reduced dependence on imported water.

The economic and efficient use of water is a priority for the Department of the Interior. The Department strongly encourages local water supply efforts.

Mr. Chairman, while the Department encourages the type of resourceful utilization of local water supplies this bill calls for and the potential for reducing the use of imported supplies from the Colorado River and the California Bay-Delta we do not support S. 1474. We understand that feasibility level studies have not yet been completed for this project. Without a proper analysis that adheres to the "Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies," and which otherwise meets appropriate Federal guidelines for consideration of project authorization, we cannot support Reclamation's participation in design and construction activities.

Reclamation is currently in consultation with the Western Municipal Water District on the project and providing them guidance on their feasibility analysis and the appropriate level of NEPA compliance that will be needed. In FY 2008 Congress appropriated additional planning funds beyond Reclamation's FY2008 request for continued involvement with the Western Municipal Water District as they finalize their feasibility work. Nevertheless, the Department believes that enactment of this legislation authorizing a new construction project places an additional burden on Reclamation, and could delay the completion of other currently authorized projects. Reclamation must prioritize and allocate funds to projects and programs based on objective and performance-based criteria to most effectively implement Reclamation's programs and its management responsibilities for the water and power infrastructure in the West.

Thank you for the opportunity to convey our concerns on this legislation, and I would be pleased to answer any questions.

S. 2370

Mr. Chairman and members of the Subcommittee, I am Robert J. Quint, Director of Operations, Bureau of Reclamation. Thank you for the opportunity to appear today to present the Administration's views on S. 2370, which would transfer title to real property in New Mexico associated with the Middle Rio Grande Project and for other purposes.

The Department is not opposed to the concept of transferring ownership of the lands described in this legislation to another entity. However, given current circumstances including ongoing litigation and lack of any excess-lands determination or appraisal of the lands identified for transfer, the Department feels that this proposed legislation is premature.

A history of the ownership of this property will help explain the circumstances leading to the introduction of this bill. The Bureau of Reclamation acquired interests in Middle Rio Grande Project works through a conveyance document granted by the Middle Rio Grande Conservancy District (MRGCD) on November 24, 1953. The lands involved with the proposed legislation were included in that conveyance, and the United States has not relinquished its interest in those specific parcels. On November 25, 1997, MRGCD and the City of Albuquerque (City) entered into a real estate sales agreement through which the MRGCD sold the City approximately 65 acres of land associated with San Gabriel Park and Tingley Beach for $3,875,000.

Article 7 of the sales agreement recognizes that the United States holds an interest in the properties, and MRGCD agreed to obtain a release of this interest from the United States. The sale was completed but the United States has never executed any release.

The Department has been a defendant in litigation that sought to quiet title to properties associated with the Middle Rio Grande Project. While the litigation did not specifically name the properties associated with Tingley Beach or San Gabriel Biological Park, the U.S. District Court for the District of New Mexico found in July 2005 that title to all Middle Rio Grande project properties is vested in the United States. This decision is now being considered on appeal to the 10th Circuit.

In light of the litigation and the uncertainty that surrounded the title question before the District court's recent decision, the City of Albuquerque initiated improvements on this property under a License Agreement with Reclamation. The City has developed and improved San Gabriel Park and has created fishing ponds, a snack bar and other recreational facilities at Tingley Beach. They have also installed a small train which runs between the Albuquerque Biological Park (BioPark) and Tingley Beach. The BioPark has been fully developed by the city into an aquarium, botanic garden, a small farm and a refugium for the endangered Rio Grande silvery minnow.

The City of Albuquerque developed the Park and associated properties for public uses that benefit Albuquerque's citizens. The manner in which the City of Albuquerque obtained the property from the Middle Rio Grande Conservancy District was inconsistent with established procedures for conveying title to federal property to another party. Nevertheless, the Department does not believe this was the result of carelessness or neglect on the part of the City of Albuquerque, nor does the Department believe this was an intentional encumbrance of federal property.

The Department is reluctant to support transfers of title to federal property when those transfers circumvent existing procedures provided by generally applicable legislation. Federal policy generally requires that adequate consideration be paid to the United States before title is transferred.

Mr. Chairman, that concludes my remarks and I would be happy to respond to any questions the Committee may have.

S. 1929 & H.R. 3328

Mr. Chairman and Members of the Subcommittee, I am Robert J. Quint, Director of Operations Bureau of Reclamation. I am pleased to be here today to give the Department of the Interior's views on S. 1929 and H.R. 3328, the Sierra Vista Subwatershed Feasibility Act. The Department does not support the proposed legislation.

The legislation would authorize the Secretary of the Interior, acting through the Commissioner of Reclamation, to conduct a feasibility study of water augmentation alternatives in the Sierra Vista Subwatershed, located in southeastern Arizona, Cochise County, in the upper San Pedro watershed, near the City of Sierra Vista. It provides for Federal funding of $1,260,000, with a local cost share of 55%, for a

total estimated cost of $2,800,000. In addition to local cost share for the study, a significant local effort will be required to resolve legal and institutional challenges in order to complete the study.

The preservation of two important Federal facilities, Fort Huachuca (Fort) and the San Pedro Riparian National Conservation Area (SPRNCA), requires augmentation of the local water supply. Fort activities and associated development near the City of Sierra Vista have resulted in a substantial groundwater overdraft that is expected to negatively impact the San Pedro River (River). A section of the River was protected by Congress as the SPRNCA. As the area's largest employer, the Fort greatly benefits southeast Arizona's (and the entire State's) economy. Despite conservation and recharge measures, groundwater overdraft continues to grow.

The Upper San Pedro Partnership (Partnership), a consortium of Federal, state, local and private groups, was established in 1988 to sustain the viability of the Fort and the River—Reclamation became a member in 2004. Also in 2004, Section 321 of the National Defense Authorization Act recognized the Partnership and directed it to prepare an annual report on progress toward the goal to "restore and maintain the sustainable yield of the regional aquifer by and after September 30, 2011." The 2011 date has motivated the Partnership to aggressively pursue feasibility authorization which could lead to implementation of an augmentation project.

The Partnership hired a private consultant to investigate measures to offset groundwater mining, including conservation, recharge, and augmentation. Reclamation examined alternatives found in the report and identified data gaps; then helped the Partnership follow a process that characterized the augmentation portion of the problem, analyzed alternatives and screened them to identify viable solutions. Reclamation documented this process in an appraisal report completed in June 2007. A total of 14 augmentation alternatives were evaluated, resulting in the Partnership selecting three alternatives for further analysis: bringing Central Arizona Project (CAP) water to Sierra Vista, capturing and recharging stormwater, and reclamation and reuse of impaired mine water. A feasibility study would be the next logical step for the Partnership to secure Reclamation assistance with augmentation implementation. The appraisal report identifies significant legal and institutional issues that need to be addressed, by local stakeholders, in order to make progress. Only the CAP to Sierra Vista alternative completely addresses the Partnership's goal for augmentation.

The Partnership is not a traditional government entity in that its membership consists of representatives from Federal, state and local governments, as well as non-profit organizations and local businesses. It has no legal authority to construct, operate, and repay capital costs. Because of this, Reclamation cannot legally contract with the Partnership.

Water management in the area is further complicated by the fact that all of the local water providers are private entities. Alternatives under consideration would need to be implemented by an entity other than the Partnership. In 2007, the State of Arizona passed legislation enabling the creation of an Upper San Pedro Water District. The legislation establishes a temporary board, which is subject to a vote by residents to make it permanent.

Reclamation recognizes issues of Federal concern in the Sierra Vista Subwatershed, including protected Federal lands in the SPRNCA, species listed under the Endangered Species Act, and the U.S. Army garrison at Fort Huachuca. A feasibility level study of water augmentation alternatives could help evaluate possible ways forward. Reclamation's appraisal report, however, identified water management challenges facing the basin, as well as legal issues associated with the alternatives. For instance, extending the CAP to Sierra Vista would entail not only the acquisition of a CAP water right, but the extension of the CAP service area. Extending the service area would require both modifications to State law and the CAP Master Repayment Contract.

To address these issues and develop an augmentation project in a timely manner, Reclamation described a two-stage process in the appraisal report. The first stage would involve development of the appropriate legal and institutional mechanisms required to implement a project, while a programmatic feasibility/National Environmental Policy Act study is conducted in which a preferred alternative or alternatives will be identified. The completion of the first stage would allow the Partnership the time to develop the necessary institutions with repayment ability while providing more detailed design and cost information needed to make informed decisions. The second stage of the process involves a detailed specific feasibility design and environmental impact study for an augmentation project. This process avoids the expense of performing detailed, and costly, design and environmental work in the case that a project partner is not created or if other significant legal issues are not resolved. We note that the Partnership has worked through the issue of institutional

repayment ability in the past by using either the City of Sierra Vista or Cochise County as fiscal agents.

If issues could be resolved and a partner identified prior to feasibility authorization, consideration should be given to conducting a more detailed feasibility study in a one stage process that could move immediately to construction. Based on Reclamation's experience, the expected cost of conducting such a study would range from $5 to $10 million and take longer to complete than the programmatic first stage study. However, if a project is certain to move to construction, the overall cost and time would be less than the proposed two stage process.

Again, while Reclamation does not support the legislation given outstanding questions about institutional capacity and has not requested appropriations for the study this bill would authorize, we understand the tremendous importance to local stakeholders, the state and the Federal government of the resources involved. We will continue to work with the Partnership on ways to deal with the groundwater overdraft that the Sierra Vista Subwatershed is facing.

Mr. Chairman, this concludes my testimony. Thank you for the opportunity to comment on S. 1929 and H.R. 3328. I would be happy to answer any questions at this time.

PREPARED STATEMENT OF THE GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR, ON H.R. 2381

Mr. Chairman and Members of the Subcommittee, the Department of the Interior appreciates the opportunity to provide its views on H.R. 2381, the "Upper Mississippi River Basin Protection Act."

The Department appreciates the efforts of the sponsors of H.R. 2831 to address this important issue and place emphasis within the bill on the need for reliance on sound science. However, we have concerns about the financial resources that would be required for the USGS to carry out this bill in the context of the availability of resources overall for Administration programs. In addition, although we support the goals of H.R. 2831 we note that the activities called for in this bill are duplicative of existing Department of the Interior authorities.

The bill directs the Secretary of the Interior, acting through the USGS, to provide a scientific basis for the management of sediment and nutrient loss in the Upper Mississippi River Basin. This would be accomplished through establishing a sediment and nutrient monitoring network that builds on existing monitoring activities; conducting research and modeling that relates sediment and nutrient losses to landscape, land use and land management characteristics; providing technical assistance regarding use of consistent and reliable methods for data collection; and instituting a program to disseminate new information to managers, scientists and the public.

The role identified for the Department in this bill is consistent with USGS's leadership role in monitoring, interpretation, research, and assessment of the health and status of the water and biological resources of the Nation. As the Nation's largest water, earth, and biological science, and civilian mapping agency, USGS conducts the largest single non-regulatory ambient water-quality monitoring activity in the Nation. The USGS has been active in a number of programs and investigations that involve the Upper Mississippi River Basin (UMRB) specifically.

The USGS is a participant in the Mississippi River, Gulf of Mexico Watershed Nutrient Task Force. This Task Force, which has representation from federal agencies, and state and tribal governments in the basin, is charged with fulfilling requirements of The Harmful Algal Bloom and Hypoxia Research and Control Act of 1998, by preparing a plan for controlling hypoxia in the Northern Gulf of Mexico, and shares a common goal of improving water-quality conditions in the Mississippi River Basin.

The USGS also had a lead role in the preparation of a science report that used available water-quality information to define a recent baseline condition for nutrient sources and loads in the Mississippi River Basin—a baseline from which future water-quality trends and improvements will be measured. This report identifies those parts of the Upper Mississippi River Basin that have the highest nutrient yields.

The USGS has offices in each of the five Upper Mississippi River Basin states. These offices have a long history of conducting water-quantity and water-quality monitoring and assessment activities within the basin. Existing USGS programs include the Hydrologic Networks and Analysis Program, the National Water-Quality Assessment Program, the National Stream Quality Accounting Network, the National Streamflow Information Program, the Toxic Substances Hydrology Program, the Water Resources Research Act Program, and the Cooperative Water Program,

as well as cooperative efforts such as the Long-Term Resource Monitoring Program funded by the U.S. Army Corps of Engineers. These programs currently provide information on nutrients and sediment within the basin.

For more than 20 years, the USGS Upper Midwest Environmental Sciences Center (UMESC) in La Crosse, Wisconsin has provided research support in the Upper Mississippi River Basin to DOI agencies and the U.S. Army Corps of Engineers to address complex issues of navigation, contaminants, and other natural resource concerns. More recently, this Center has developed an active partnership with the Department of Agriculture, Natural Resources Conservation Service, on sediment and nutrient concerns of the agencies. For over 15 years, the UMESC has provided the scientific and management leadership for the Long-term Resource Monitoring Program component of the U.S. Army Corps of Engineers' Upper Mississippi Restoration-Environmental Management Program. This monitoring program of water quality, fisheries, vegetation, land use, and other critical indicators of river health is the largest main stem river assessment program in the Nation. The USGS conducts monitoring activities in cooperation with many states and local governments in the Upper Mississippi River Basin. The USGS is also active in hydrologic and water-quality studies in the Lower Mississippi River Basin. The continuity of research is important from the standpoint of developing a complete assessment of the entire Mississippi River basin. To this end, the USGS has begun a partnership with the Long-term Estuary Assessment Group, centered at Tulane University.

H.R. 2381 acknowledges the need to use all existing monitoring and science programs of the USGS and those of other entities while identifying information needs in the Upper Mississippi River Basin. Existing monitoring and assessment programs and development of models are tools for defining how water-quality conditions are affected by human activities and natural climatic variations and how management actions may best improve water-quality conditions at a wide range of scales from small watersheds to the Mississippi River Basin.

The bill would also authorize integration of activities conducted in cooperation with other federal partners and would emphasize and expand the existing USGS coordination and assistance to state monitoring programs. For example, the U.S. Fish and Wildlife Service's (Service) Partners for Fish and Wildlife Program restores wetland habitat in watersheds across the country, including the Upper Mississippi River Basin. The Service can apply its expertise to the reduction of sediment and nutrient loss in the basin through participation in demonstration projects, technical assistance, and working groups. We recognize the need to ensure that future monitoring activities complement and do not duplicate state monitoring activities.

In summary, while the proposed legislation describes a program consistent with current USGS activities to support protection of the UMRB and the Gulf of Mexico Watershed Nutrient Task Force recommendations, these conservation activities are already being addressed by other on-going programs. Funding for the activities in H.R. 2381 is not included in the fiscal year 2009 President's Budget proposal and would remain subject to available resources.

Thank you, Mr. Chairman, for providing the Department with the opportunity to present this statement.

Senator JOHNSON. As to S. 1474, by Senator Feinstein, Reclamation recently completed an EIS and Record of Decision on shortage-sharing in the Lower Colorado River Basin. On a related note, there was recently a substantial amount of news regarding the decreasing level of water in Lake Mead.

Doesn't the Bureau of Reclamation have a strong interest in supporting projects like the Riverside-Corona Feeder Project, which can help California reduce its reliance on the Colorado River? What is the long-term forecast for water supplies in the lower Colorado River Basin?

Mr. QUINT. Our long-term prognosis is that it is going to be a very difficult situation to continue to deal with. As you may be aware, the Colorado River is an over-appropriated river——

Senator JOHNSON. Yes.

Mr. QUINT. [continuing]. From the start. With the continued growth in the Southwest, there's even more needs that need to be met with that. Granted, this particular project would help alleviate some of the strains on that system. But, at this point in time, we

can't support this project until it gets a little more along in its feasibility level of study.

Senator JOHNSON. As to S. 1929, by Senator Kyl, Reclamation has already completed an appraisal-level study in three basic water augmentation alternatives in the Sierra Vista watershed.

Did that report provide an estimated cost for each of the alternatives? If so, what are those estimates? Is there more that can be done in the area of water conservation?

Mr. QUINT. I am not aware, in detail, of what the report had, but we'd be glad to provide that information for the record. My understanding is, regarding water conservation, that there are significant water conservation activities going on in the Sierra Vista area. They are a very proactive community in trying to deal with water conservation issues.

I think the issue there, as I understand it, is even with those water conservation efforts, the amount of water overdraft is exceeding the supply that's there.

Senator JOHNSON. In the interests of time, we will submit additional questions for the record. I thank you, Mr. Quint, for being here today. You're excused.

Mr. QUINT. Thank you.

Senator JOHNSON. On our second panel, we have the Honorable Mick Cornett, Mayor of Oklahoma City, testifying on S. 177 and H.R. 2085; Carl Janzen of the Madera Irrigation District in California on S. 1473 and H.R. 1855; John Rossi of the Western Municipal Water District in California on S. 1474 and H.R. 1139; and Charles Potucek representing the Upper San Pedro Partnership in Arizona, testifying on S. 1929.

Welcome to each of you. Mayor Cornett, please start by summarizing your testimony. We'll then proceed down the table for each of you to give your statements. I'll follow up with a couple of questions. Mayor Cornett.

STATEMENT OF MICK CORNETT, MAYOR, OKLAHOMA CITY, OK

Mr. CORNETT. Chairman Johnson, thank you for the opportunity to testify today before the subcommittee. I am the Mayor of Oklahoma City. My name is Mick Cornett. I am here to present the views of the McGee Creek Authority on S. 177/H.R. 2085, McGee Creek Project Pipeline and Associated Facilities Conveyance Act.

This Act will transfer certain McGee Creek properties and associated facilities from the Bureau of Reclamation to the McGee Creek Authority. The McGee Creek Authority is a public trust of the State of Oklahoma, to which the city of Oklahoma City, the city of Atoka, and the county of Atoka are beneficiaries.

All three entities benefit from the water rights they hold in the McGee Creek Reservoir, which is in Southeastern Oklahoma. The McGee Creek Authority was established back in 1978. It is financed, operated, and maintained as a purpose to keep up the reservoir, dam, and water pipeline, as well as the pumping station.

The McGee Creek Reservoir provides many Oklahomans with, first and foremost, a dependable water supply, and in addition, a number of recreational opportunities.

The McGee Creek Authority and I represent—or, actually, request that the U.S. Senate Subcommittee on Water and Power con-

sider and ultimately approve S. 177/H.R. 2085, the McGee Creek Project Pipeline and Associate Facilities Conveyance Act, which will allow transfer of certain facilities and properties from the Bureau of Reclamation to the McGee Creek Authority—namely, the water pipeline and pumping facilities, headquarters office, pole barn, storage building, surge tank, control and relay stations, and associated land that they reside in and on.

The McGee Creek Reservoir and associated water pipeline, pumping facilities, and properties, where built in conjunction with the Bureau of Reclamation. The McGee Creek Authority operates and maintains the reservoir and associated water pipeline and pumping facilities, and is obligated to pay the annual operational and maintenance costs and for its debt.

In 1992, the McGee Creek Authority paid to the Bureau of Reclamation $88.6 million to fully repay the Federal Government for its cost of constructing the McGee Creek water supply related facilities. At the time the McGee Creek Authority repaid the costs of the water supply facilities, Federal policy required all facilities built for the Bureau of Reclamation remain the property of the Federal Government.

The McGee Creek Authority began pursuing the property transfer proposed in S. 177/H.R. 2085 when we became fully aware that the Federal law allowed it—and, I might add, started to encourage it. The McGee Creek Authority, in conjunction with Bureau of Reclamation, is requesting that Congress authorize the transfer of certain facilities, including the McGee Creek water pipeline and pumping facilities and associated facilities and property.

Specifically, the pole barn, storage building, and office structures, and the 13.35 acres on which they are located; the pumping plant and maintenance shop, and the 10.25 acres on which they are located; 12 miles of 72-inch raw water pipeline, and associated easements for this pipeline from the McGee Creek Pumping Plant to the rate-of-flow control station at Lake Atoka; five miles of 66-inch raw water pipeline, and associated easements downstream of the rate-of-flow control station to the rate-of-flow station at Atoka Lake; the rate-of-flow station at Atoka Lake, and the associated easement; surge tank connected to the pipeline, and the connecting pipeline as an associated easement; and all other water supply control structures in related facilities with associated easements.

The McGee Creek Reservoir itself is not included in this transfer. The beneficiaries of the McGee Creek Authority, including the city of Oklahoma City, only hold the right to store water and use the water supply contained within the McGee Creek Reservoir. The mineral rights of the lake and the reservation are specifically excluded from this transfer. There will be no impact on oil and gas interests under the purposed legislation.

We believe the requested transfer of these specific McGee Creek water facilities and properties will have no adverse affect on the Federal Government's involvement with or control of the McGee Creek Reservoir. The McGee Creek Authority already pays all maintenance and operating costs associated with these reservoir facilities. The transfer would vest ownership in these facilities and associated properties in the McGee Creek Authority, and thereby facilitate the ability of the Authority to finance future operation,

maintenance, and replacement of these facilities, particularly, the large, aging capital structures.

The transfer would lessen the Bureau of Reclamation's responsibility to provide administrative review of the McGee Creek Authority's ongoing operations and maintenance functions for these facilities. Going forward, the McGee Creek Authority will continue to provide the same quality services as we have provided in the years past. The McGee Creek Authority believes the transfer of the mentioned facilities and property is in the best interest of all parties—the Federal Government, the residents of Oklahoma, and the businesses and beneficiaries of the McGee Creek Authority. That includes the cities of Oklahoma City, the city of Atoka, as well as the county of Atoka.

On behalf of the McGee Creek Authority and myself, I hereby duly request your review of the attached supportive documents, and ultimately, I ask for Senate approval of S. 177/H.R. 2085, transferring those McGee Creek facilities and associated properties to the McGee Creek Authority.

Mr. Chairman, this concludes my statements. I stand ready to answer any questions that you might have on this issue.

[The prepared statement of Mr. Cornett follows:]

PREPARED STATEMENT OF MICK CORNETT, MAYOR, OKLAHOMA CITY, OK, ON S. 177 AND H.R. 2085

Chairman Johnson and members of the Subcommittee, thank you for the opportunity to appear before you today. My name is Mick Cornett, Mayor of Oklahoma City, and I am here to present the views of the McGee Creek Authority on S.177/H.R. 2085, McGee Creek Project Pipeline and Associated Facilities Conveyance Act. This act will transfer certain McGee Creek properties and associated facilities from the Bureau of Reclamation to the McGee Creek Authority.

The McGee Creek Authority is a public trust of the State of Oklahoma to which the City of Oklahoma City, the City of Atoka and the County of Atoka are beneficiaries. All three entities benefit from the water rights they hold in the McGee Creek Reservoir in southeastern Oklahoma.

The McGee Creek Authority was established in 1978 to finance, operate and maintain the reservoir, dam and water pipeline and pumping stations. The McGee Creek Reservoir provides many Oklahomans with, first and foremost, a dependable water supply and, in addition, a myriad of recreational opportunities.

The McGee Creek Authority and I request that the U.S. Senate, Subcommittee on Water and Power, consider and ultimately approve S.177/H.R. 2085, the McGee Creek Project Pipeline and Associated Facilities Conveyance Act, which will allow transfer of certain facilities and properties from the Bureau of Reclamation to the McGee Creek Authority, namely the water pipeline and pumping facilities, headquarters office, pole barn, storage building, surge tank, control and relay stations and associated land that they reside in and on.

The McGee Creek Reservoir and associated water pipeline, pumping facilities and properties, were built in conjunction with the Bureau of Reclamation. The McGee Creek Authority operates and maintains the reservoir and associated water pipeline and pumping facilities and is obligated to pay the annual operational and maintenance costs and for its debt. In 1992, the McGee Creek Authority paid to the Bureau of Reclamation $88.6 million to fully repay the federal government for its cost of constructing the McGee Creek water supply related facilities. At the time the McGee Creek Authority repaid the cost of the water supply facilities, federal policy required all facilities built through the Bureau of Reclamation remained the property of the federal government. The McGee Creek Authority began pursuing the property transfer proposed in S.177/HR 2085 when we became aware federal law allows it.

The McGee Creek Authority in conjunction with the Bureau of Reclamation is requesting that Congress authorize the transfer of certain facilities, including the McGee Creek water pipeline and pumping facilities and associated facilities and property, specifically:

- The pole barn, storage building and office structures and the 13.35 acres on which they are located.
- The pumping plant and maintenance shop and the 10.25 acres on which they are located.
- 12 miles of 72-inch raw-water pipeline and associated easements for this pipeline from the McGee Creek pumping plant to the rate-of-flow control station at Lake Atoka.
- Five miles of 66-inch raw-water pipeline and associated easements, downstream of the rate-of-flow control station to the rate-of flow station at Atoka Lake.
- The rate-of-flow station at Atoka Lake and an associated easement.
- Surge tank connected to the pipeline and the connecting pipeline and an associated easement.
- And all other water supply-control structures and related facilities with associated easements.

The McGee Creek Reservoir itself is not included in the transfer. The beneficiaries of the McGee Creek Authority, including the City of Oklahoma City, only hold the right to store water and use the water supply contained within the McGee Creek Reservoir. The mineral rights in the lake and reservation are specifically excluded from the transfer. There will be no impact on oil and gas interests under the proposed legislation.

We believe the requested transfer of these specific McGee Creek water facilities and properties will have no adverse affect on the federal government's involvement with or control of the McGee Creek Reservoir. The McGee Creek Authority already pays all maintenance and operating costs associated with these reservoir facilities. The transfer would vest ownership in these facilities and associated properties in the McGee Creek Authority and thereby facilitate the ability of the McGee Creek Authority to finance future operation, maintenance and replacement of these facilities, particularly the large aging capital structures. The transfer would lessen the Bureau of Reclamation's responsibility to provide administrative review of the McGee Creek Authority's ongoing operations and maintenance functions for these facilities. Going forward, the McGee Creek Authority will continue providing the same quality services as in years past.

The McGee Creek Authority believes the transfer of the mentioned facilities and property is in the best interest of all parties—the federal government, Oklahoma residents and businesses, and the beneficiaries of the McGee Creek Authority, which include the cities of Oklahoma City and Atoka and the County of Atoka.

On behalf of the McGee Creek Authority and myself, I hereby duly request your review of the attached supportive documents and, ultimately, Senate approval of S.177/H.R. 2085 transferring these McGee Creek facilities and associated properties to the McGee Creek Authority.

Mr. Chairman, that concludes my statement. Thank you for the opportunity to present the views of the McGee Creek Authority. I would be pleased to answer any questions that you or other members of the subcommittee may have.

Senator JOHNSON. Thank you, Mayor Cornett. Next is Mr. Janzen.

STATEMENT OF CARL JANZEN, PRESIDENT, BOARD OF MADERA IRRIGATION DISTRICT, MADERA, CA

Mr. JANZEN. Senator Johnson, my name is Carl Janzen. I am a third-generation farmer and President of the Madera Irrigation District, which I will refer to as MID in the rest of my testimony. I thank you for inviting me to provide testimony on Senate 1473. This is the companion of a bill which has already been passed by the House of Representatives, H.R. 1855, that George Radanovich has already spoke about. We thank him also. Mrs. Senator Feinstein is carrying this bill, and we thank her.

MID was established in 1920 by the farmers of Madera County to bring surface water to the farmers in Madera County and MID, which later was divided into two water districts. In the past years, we have bought the Madera Ranch Project to use as water banking. It is part of our plan to stop the overdraft of the water in our district.

We are overdrafting now at the rate of 40,000 acre feet a year. In 1912, when my grandfather came to the area, he dug 20 feet to water for his family. My sons and I, last year, dug 165 feet to get to water. That is what is happening in our district.

The additional storage that we can gain through the use of the water bank at the Madera Ranch of 13,600 acres is approximately 250,000 acres of storage, 55,000 acres of water, either in or out, on any given year. We have set that up for use of the farmers, for developers in the county, for environmental uses, the Bureau, and the State Fish and Game. There is some use for each of those in this water bank.

It is located in the southwestern part of Madera County and the Bureau, in the 1990s, did a study—looked at purchasing this for a water bank owned by the Bureau. For other reasons, they did not proceed. Private industry and our district looked at it. We have ended up buying it and are proceeding to try to bring it to fruition.

This water bank has had many studies done on it—19, in fact, that I know of—at a total cost of about $8 million on each of these studies. That is why we ask in this bill that there not be any further studies done on it, that we go ahead and do the job, instead of keep studying it to death.

The appraisal report that the Bureau did last year on it gave it a go-ahead. The Bureau also awarded us a 2025 Water Grant of $297,000 to work on it. They have approved a pilot program on the ranch that we're now into. All we need is a wet year so that we can have extra water to put it in there.

So, it brings me to the final point, I think, of discussion on this water bank. Before you is—in your Committee for discussion in the future—Senator Feinstein's San Joaquin River Restoration Project. This water bank is just six miles from the San Joaquin River at Gravelly Ford.

We looked at it, and as late as Tuesday I was at the Bureau's office in Sacramento, discussing with them how they could be involved in this water bank. We have room set aside in the water bank for the Bureau of Reclamation to use for environmental needs. We see that—and the Bureau, I think, is coming to see that—that if the restoration bill goes through, it will be a part of their work of fulfilling the restoration program and the water that they need by dedications in the bill to have set aside for uses in dry years.

In the Fish and Game from California, the Department is looking at it, and also maybe wants to use it. So, that in a nutshell is what this project's for. It's to help, not just the water district, but it's to help our whole county and the environment in California.

I thank you for your attention. I hope the Senate will be able to pass this bill. I thank both Senator Feinstein and George Radanovich in the House, for their efforts they have put into it.

[The prepared statement of Mr. Janzen follows:]

PREPARED STATEMENT OF CARL JANZEN, PRESIDENT, BOARD OF MADERA IRRIGATION DISTRICT, MADERA, CA

Mr. Chairman and members of the Water and Power Subcommittee, My name is Carl Janzen. I am a third generation farmer and President of the Board of the Madera Irrigation District, which I will refer to in my testimony as "MID". Thank you for inviting me to provide testimony on S. 1473, a bill that authorizes critical

federal funds to be directed to the Madera Irrigation District's Water Supply Enhancement Project in Madera, California. We are extremely grateful to Senator Feinstein for introducing this legislation and for her leadership on water issues in California. As you may know, the House of Representatives has already unanimously passed the companion bill, H.R. 1855. The House also passed this legislation in 2006, and I cannot stress enough how critical it is to Madera and the Central Valley of California that the Senate complete final action on this legislation this year.

MID was established in 1920 to supply surface water to farmers in its service area. Madera farmers are some of the most productive in California's San Joaquin Valley, among the most productive agricultural regions in the world. Every year we produce over one billion dollars in almonds, grapes, milk and other agricultural products for consumers in the United States and around the globe. But unlike many other agricultural areas in California, most of Madera's farms are still owned and operated by families like my own. Madera's agricultural economy is the backbone of our region and we're very proud of it.

Water, of course, is the fuel that runs our region's economic engine. To obtain the water we need, farmers within MID use a combination of groundwater pumped from beneath our land and surface water delivered to us by MID. The need to pump groundwater varies in response to weather conditions and the availability of surface water, with an increase in pumping required in dry years when there is a limited supply of surface water.

Over the years, the amount of groundwater pumped has exceeded the amount of water recharging the aquifer, resulting in what scientists call groundwater overdraft. Even in wet years, the groundwater is in overdraft because of pumping in dry years and increased pumping for municipal and industrial purposes. This overdraft has caused the water table to decline and groundwater quality to degrade. In addition, because we have to reach further underground for our water, it is becoming more and more expensive to pump to the surface.

MID's efforts to reduce the need for groundwater by establishing a supply of surface water began in the 1930s, when our forefathers already knew that we needed a stable and reliable source of surface water. Their foresight led to the sale of MID's property on the San Joaquin river to the Bureau of Reclamation for the construction of the Friant Dam. Like other dams, the Friant Dam was designed for flood control and, most importantly, to store water for agricultural use. The storage provided by the dam is one of the cornerstones of our water supply system and is essential to the vitality of our economy.

But while storage in the Friant has reduced our reliance on groundwater pumping, Madera's aquifer is still in overdraft at the rate of 100,000 acre feet a year. In 1912, when my Grandfather dug the first well on our farm, he had to drill just twenty feet before finding water to sustain our family business. Recently, my son and I had to drill 165 feet in the same area. And my family is one of the lucky ones. Some farmers are drilling seven-or eight-hundred feet down to get water, if they can find any at all.

The need for additional storage to reduce the rate of groundwater overdraft and stabilize supply is why MID is pursuing the Water Supply Enhancement Project. Like the Friant Dam, MID's project is key to our water security and the continued health of our region's economy and communities. But unlike the Friant Dam, our Project provides storage of water underground. It is what we in the west call a "water bank": an underground storage facility designed to store our water for use during dry years.

MID has been working for years to realize its vision of an underground storage facility to serve the needs of the community. We have talked to our farmers and other members of our community so we understand exactly how to develop and operate the Project to meet our needs. Over the last several years, MID has held dozens of public meetings in Madera County alone and has received many letters of enthusiastic support from local, state and federal elected officials, as well as organizations, agencies, and individuals. As a result of our outreach efforts, support for the Water Supply Enhancement Project has been overwhelming.

Having achieved the necessary public support, it is essential that this support be maintained. One of the key components of the Project's administration is the Oversight Monitoring Committee, which MID established in 2005. Members of the Committee include community leaders and neighboring property owners who provide a watchful public eye on the Project's development and operation. Among many other responsibilities, the Committee is charged with protecting neighboring landowners from potential impacts from the Project, and is vital to ensuring that the Project is responsive to the concerns of local landowners and the community.

MID has invested $37.5 million to purchase approximately 13,648 acres known as the "Madera Ranch", land ideally suited for the Water Supply Enhancement Project. As designed by MID, the facility has the ability to store 250,000 acre feet of water, about half of what the Friant Dam can store. The Project could move 55,000 acre feet into or out of storage each year, enough to provide the 147,000 acres in MID with reliable sources during dry years. A key element of our Project is to always leave behind ten percent of the water banked, thus reducing the rate of groundwater overdraft.

While this would be the first underground water storage facility in Madera, there are many examples of successful water banks in California. The Project is based on proven methods and the latest in sustainable water management practices. We have learned from the experiences of the pioneers in this area and are committed to serving our community with one of California's best examples of underground banking facilities.

Located in Southwestern Madera County, the Madera Ranch has historically been used for row crops, orchards, vineyards, and livestock grazing. Owned for generations by the Pope family, most of the Madera Ranch has never been farmed. The land contains valuable habitat and some of the Central Valley's last remaining large sections of native grasslands. Most importantly for the purposes of the water storage facility, the soils on and underneath the land are ideal for percolating water from the surface down to the aquifer. In fact, large pools of water literally disappear overnight, quickly percolating down to the overdrafted aquifer below.

We have watched others attempt to build water banks in Madera and fail because they were motivated more by the goals of out-of-state business interests than by local needs and priorities. In the mid-1990s, the Bureau of Reclamation tried to buy the Madera Ranch and build its own water bank. As part of this effort, the Bureau conducted extensive studies regarding the feasibility of building such a bank. When the Bureau abandoned the effort because of other reasons, MID and other private parties continued to explore the possibility of building a water bank on the Madera Ranch property. Not counting the Bureau's own in-house efforts and studies, over $8 million has been spent on studies relating to this project by MID and private parties.

This long history of studying the possibility of a water bank is the reason why S. 1473 contains an unusual feature: it declares the project feasible and states that no further studies are necessary. We have submitted for the record a list of the 18 studies that have been conducted since the 1990s regarding the water bank, including the Bureau's most recent appraisal study which found that "the Madera Ranch Groundwater Bank is a project that has been investigated for approximately ten years for its potential to improve water supply reliability and reduce groundwater overdraft conditions." The Madera water bank has been studied more extensively than perhaps any other potential Bureau-supported project and the unanimous view of these studies is that this project should be built as soon as possible.

There is another reason why it is so urgent to build the water bank. This committee is currently considering Senator Feinstein's legislation to implement the provisions of the San Joaquin River Restoration settlement. The settlement, which MID supports, will place additional strain on the water supply available to Central Valley farmers. Already, there is a 100,000 acre-feet per year overdraft in Madera County. For MID alone the overdraft is 40,000 acre-feet. When the settlement is implemented, MID's water supply from the Friant Division, already inadequate, would be reduced by as much as 20 percent on an annual average basis.

The San Joaquin River Restoration settlement provides not just for restoration but for water management goals, including taking steps "to reduce or avoid the impacts to all Friant Division long-term contractors caused by the Restoration flows (including, for example, expanded groundwater banking)." Although the MID water bank is not technically part of the settlement, it is just 6 miles from the San Joaquin River at Gravelly Ford. Recognizing this interrelationship, the MID Board has discussed with the Bureau setting aside capacity in the Project for environmental purposes that could help fulfill goals of the San Joaquin Restoration.

Two and one-half years ago I appeared before the Water and Power Subcommittee of the House Committee on Resources to testify on an earlier draft of the legislation. Since that time, MID has completed the state environmental review process and expects to issue a final EIS and complete the federal NEPA process by this fall. We are working cooperatively with Madera County to ensure that the Project plays a central role in the region's integrated regional water supply and management planning. The Bureau of Reclamation has approved a three-year pilot program to bank San Joaquin River water at Madera Ranch and awarded MID $297,000 for the Project under its Water 2025 Challenge Grant program.

The next step is to finance and build the water bank. Building the Project requires the improvement of existing water conveyance systems and canals on the Ranch to deliver water to recharge areas in natural swales and low spots in the native grazing land. It also requires the placement of new wells to pump water out of storage when needed. MID estimates that the total cost of the water bank will be approximately $90 million. S. 1473 specifically caps the cost of the Bank at $90 million for purposes of calculating the federal contribution to the project. Although the bulk of the project's financing will come from state and local sources, the federal funds authorized by S. 1473 are critical to MID's ongoing efforts to balance the water needs of MID users with the Water Bank.

MID is also exploring ways to set aside and protect the Madera Ranch's native grasslands and habitat, which comprise the largest contiguous tract of upland habitat in the Central Valley. Of the 13,648 acres, the Water Supply Enhancement Project will need about 10% of the land for percolation of water into groundwater storage. The extent to which MID can achieve its goal to protect the remaining almost 10,000 acres of native, undeveloped land will depend, in part, upon the extent of public assistance we receive from the Project.

Thank you again for the invitation to speak with you today about the MID Water Supply Enhancement Project. Enactment of the Madera Water Supply and Enhancement Project Act legislation is essential to timely completion of the Project and will help to ensure the continued flow of Madera's agricultural products across the nation and around the world. We urge the Subcommittee to give the legislation prompt and favorable consideration.

Senator JOHNSON. Thank you Mr. Janzen. Next, Mr. Rossi.

STATEMENT OF JOHN ROSSI, GENERAL MANAGER, WESTERN MUNICIPAL WATER DISTRICT, RIVERSIDE, CA

Mr. ROSSI. Mr. Chairman, thank you for inviting me today to testify on behalf of Senate 1474, the Riverside-Corona Feeder Water Supply Act. I am John Rossi, the General Manager of the Western Municipal Water District, project sponsor for the feeder.

I know your time is limited, so I will summarize my comments, and I have submitted my written testimony to your staff.

Western Municipal Water District provides wholesale retail water and wastewater services to over a 520-square-mile service area over a two-county, with a population of over 800,000 people. Our region is expected to double, both in population and in demand for potable water by the year 2025.

Designed to help us meet these demands for our ever-growing region, S. 1474 authorizes the planning, design, and construction of the feeder with a 25 percent Federal cost share. It contemplates that the Bureau of Reclamation will be the lead Federal agency partnering on the project. The feeder will provide one of California's fastest growing, but drought-prone regions, with up to 40,000 acre feet a year of new drinking water by capturing and storing in wet years, in order to increase firm water supplies and improve water quality, especially in dry years.

The project will include approximately 20 wells and 28 miles of pipeline to convey the water throughout the region, to numerous cities and water districts. As we prepare for the future impacts of global climate change on our limited water supplies, this project will be even more important. Models now predict the climate change will produce less frequent, but more intense, rainstorm events and significantly faster snow melt.

This will result in more lost water to the ocean as current water distribution and diversion systems in the State cannot capture enough of this higher peak runoff flow. Without projects like the

feeder, our current drought, which is already of historic proportions, may seem like the good old days.

The Federal nexus of this project, the current Reclamation projects, is clear and compelling. New, useable water supplies created by the feeder would replace imported water from the Colorado River and the California State Water Project sources in times of drought or other shortages. By better managing our precious imported water supplies, it supports the Secretary of Interior's role as Water Master of the Lower Colorado River.

We believe constructing the feeder is crucial to the State of California's efforts to implement the Quantification Settlement Agreement, referred to as the QSA, a key foundation for a future Lower Colorado River management by the Secretary. Further projects like the feeder will integrate to the implementation of the new Seven States Agreement in the Colorado River Basin.

We're all very pleased in Southern California that this accord has been signed. It's now time to build projects that will help address shortages on the river and help augment the rise of water storage levels in both Lake Powell and Lake Mead.

The water supplies imported by the State project are now negatively impacted by the recent Federal court ruling on the delta smelt. In our region, we have acute need to find new resources of water, because portions of our service area are 100 percent reliant upon imported State water project supplies.

Fortunately, with Federal authorization for this project, the district can step into quickly minimizing the damage caused by these shortages that will hit Southern California as a result of a delta smelt decision.

Detailed feasibility studies and environmental reports have been prepared. The District is working diligently to continue implementation efforts for the feeder. We will continue to work closely with the Reclamation's Temecula area office to coordinate engineering and environmental work necessary to complete the project.

Finally, the project has been vetted, studied, and will create new water, improve groundwater quality, and reduce, again, our reliance on Colorado River and State Water Project supplies.

We look forward to continuing to strengthen our relationship with Reclamation or design and build this crucial water supply project. I certainly want to thank Senator Feinstein and Congressman Calvert, as well as yourself, for the assistance today. Thank you.

[The prepared statement of Mr. Rossi follows:]

PREPARED STATEMENT OF JOHN ROSSI, GENERAL MANAGER, WESTERN MUNICIPAL WATER DISTRICT, RIVERSIDE, CA

Mr. Chairman, Members of the Subcommittee, thank you for inviting me to testify today in support of S. 1474, the "Riverside-Corona Feeder Water Supply Act." I am John Rossi, General Manager of Western Municipal Water District, project sponsor of the Riverside-Corona Feeder.

Western Municipal Water District (District) is a regional wholesale water agency and a member of the Metropolitan Water District of Southern California. We provide wholesale and retail water and wastewater services to a 527 square mile service area with a population of over 800,000 people. Our region is expected to double in population, with a similar doubling of demand for imported water by 2025. Our region is also one of the fastest expanding economies in the nation.

S. 1474 authorizes the planning, design, and construction of the Feeder with a 25% Federal cost share. S. 1474 contemplates that the Bureau of Reclamation (Reclamation) will be the lead Federal agency partnering on the project.

The Riverside-Corona Feeder (Feeder) will provide one of California's fastest growing, but drought prone regions, with up to 40,000 acre-feet a year of new drinking water by capturing and storing water in wet years in order to increase firm water supplies and improve water quality. The project will include approximately 20 wells and 28 miles of pipeline to convey the water throughout the region to numerous cities and water districts.

Let me put this project into perspective—if it was in place in 2005, one of the wettest years on record in California, we could have stored about 35,000 AF of water. Instead, that water was lost to the ocean, and was not available to serve the region in the drought years that have followed.

As we prepare for the future impacts of global climate change on our limited water supplies, this project will become even more important. Models for our region produced by the University of California predict that climate change will produce less-frequent, but more intense rain storm events. Additionally, these projections detail significantly faster snow melt. This will result in more water lost to the ocean as current water diversion systems in the state cannot capture these higher peak run off flows. Without projects like the Feeder, our region stands to face ever-worsening droughts and we will simply have to continue to watch our only local fresh surface water supply continue to run into the ocean. It will make our current drought, which is already of historic proportions, seem like the good old days.

Recognizing the importance of the Feeder, The California State Water Resources Control Board awarded the project $4.9 million from Proposition 50 competitive grant funds. And because they understand that the project is integral to regional water planning, the Feeder is supported by water agencies upstream in San Bernardino County and downstream in Orange County. This bill is also supported by and fully consistent with the Metropolitan Water District of Southern California's Integrated Resource Plan, the Santa Ana Watershed Project Authority's Integrated Watershed Plan, the San Bernardino Valley Municipal Water District's Integrated Resource Plan, and the water management plans for the cities of Riverside, Norco and Corona as well as the Elsinore Valley Municipal Water District.

The federal nexus of this project to current Reclamation projects is clear and compelling. New usable water supplies created by the Feeder would replace imported water from Colorado River and the California State Water Project sources in times of drought or other shortages.

By better managing our precious imported water supplies, it supports the Secretary of the Interior's role as Watermaster of the Lower Colorado River. We believe constructing the Feeder is crucial to the State of California's effort to implement the Quantification Settlement Agreement (QSA), a key foundation for future Lower Colorado River management by the Secretary. Also, projects such as the Feeder can be a far more effective means to QSA implementation than relying on agricultural transfers as a long-term supplemental water supply.

Further, projects like the Feeder will be integral to the implementation of the new "Seven States Agreement" in the Colorado River Basin. We are all very pleased that this accord has been signed. It is now time to build projects which help address shortages on the Colorado River and help to augment the rise of water storage levels in both Lake Powell and Lake Mead under the newly minted Colorado River Basin reservoir management criteria approved by the seven states and adopted by Interior.

The water supplies imported by the State Water Project are now negatively impacted by the recent federal court ruling on the Delta smelt. Water interests across the state can no longer rely on "business as usual" water supplies from the Delta, and need to find and develop new local sources of water that are more reliable than imported water.

In our region, we have an acute need to find these new sources because portions of the District's service area are 100 percent reliant upon imported state water supplies. Fortunately, our District is well along that path with the Feeder and, with federal authorization for the project, we can step in quickly to minimize the damage caused by shortages that will hit southern California as a result of the Delta smelt decision.

Finally, there are very important environmental remediation benefits of the Feeder project. Up to half of the project's wells could be placed within plumes of volatile organic compounds (VOC's) and perchlorate which have polluted groundwater basins in the District through the prior industrial and agricultural uses in the region. Much of the perchlorate in the groundwater is the result of Department of Defense

munitions manufacturing. These new Feeder injection wells could annually remediate up to 20,000 acre-feet of currently contaminated water per year.

Detailed Feasibility Studies and environmental reports have been prepared and approved by District personnel and contracted professional engineers, and have been certified by the State of California. The District is working diligently to continue implementation efforts for the Feeder. We will continue to work closely with the Reclamation's Temecula area office to coordinate engineering and environmental work necessary to complete the project.

To conclude, the Feeder is a project that has been vetted and studied and will create new water, improve groundwater quality, and reduce our reliance on the Colorado River and the State Water Project. We look forward to continuing and strengthening our relationship with Reclamation in order to design and build this crucial water supply project. Thank you, Mr. Chairman, and I would answer any questions you or the Committee may have at this time.

Senator JOHNSON. Thank you, Mr. Rossi. Mr. Potucek, proceed.

STATEMENT OF CHARLES POTUCEK, CITY MANAGER, SIERRA VISTA, AZ

Mr. POTUCEK. Thank you, Mr. Chairman, for allowing me to speak today on Senate 1929, the Sierra Vista Subwatershed Feasibility Study Act. Let me start by extending the regrets of Mayor Bob Strain, of the city of Sierra Vista, Arizona, and chair of the Upper San Pedro Partnership, for not being able to attend today's hearing. I want to thank Senator Kyl for sponsoring of this bill on our behalf.

My name is Charles Potucek, and I serve as the city manager for the city of Sierra Vista, Arizona, a city of 44,000 people, located in Cochise County in Southeastern Arizona, and home to the Fort Huachuca Military Installation.

Today, I am representing the Upper San Pedro Partnership, a consortium of 21 Federal, State, and local governmental agencies, nongovernmental organizations, and private companies. The partnership strives to ensure that we meet the long-term groundwater needs of both the residents of the Sierra Vista Subwatershed, as well as the Upper San Pedro River. The city of Sierra Vista serves as a fiscal agent for the partnership, and facilitates many Federal agreements through this mechanism on behalf of the partnership.

Congress formally recognized the partnership through Public Law 108–136, Section 321, in 2003 and requires us to report on its progress to Congress on an annual basis. As a testimony to its efforts, we recently learned that the partnership is the recipient of the U.S. Department of Interiors Cooperative Conservation Award, and Mayor Strain will accept that award, here, on April 21.

The Sierra Vista Subwatershed contains two important Federal treasures—Fort Huachuca, administrated by the Department of Defense, and the San Pedro Riparian National Conservation area, designated by Congress in 1988 and administered by the Department of the Interior, Bureau of Land Management.

Fort Huachuca houses the United States Army Intelligence Center, the U.S. Army Network Enterprise Technology Command, 9th Signal Command, the U.S. Army Information Systems Engineering Command, the Joint Interoperability Test Command, the Electronic Proving Ground, the Intelligence and Electronic Warfare Testing Directorate, and the U.S. Army Communications Electronics Command Communications Security Logistics Activity.

The San Pedro Riparian National Conservation area supports approximately 400 avian species, 81 mammalian species, 43 species of reptiles and amphibians, and serves as a primary migratory bird corridor.

Also, of extreme importance, this conservation area provides critical habitat to the endangered Huachuca water umbel, requiring Fort Huachuca to seek a biological opinion from the United States Fish and Wildlife Service, pursuant to section 7 of the Endangered Species Act of 1973. In June 2007, that biological opinion was completed.

Protection of that critical habitat by Fort Huachuca, as published in the biological opinion, will ensure that Fort Huachuca can continue to perform its critical missions without jeopardizing the endangered species found in the conservation area.

The partnership established three fundamental strategies in order to achieve its goal. The strategies include conservation, reclaiming effluent, and augmenting existing water resources through improved rainfall harvesting and the importation of addition ones.

Senate 1929 speaks to the third strategy and allows the partnership to proceed to the second phase of the augmentation project. The Bureau performed a required appraisal report in June 2007, completing the first phase of the process.

The partnership values the Bureau's contributions. In fact, the Bureau provided $1.5 million through a cooperative agreement with the city of Sierra Vista toward construction of Sierra Vista's Environmental Operations Park that began operations in 2001. The Environment Operations Park recharges high-quality, treated effluent into the ground in order to protect the conservation area from the effects of groundwater pumping from the more densely populated areas of the subwatershed. It remains the single and most effective water reclamation project in the subwatershed, recharging more than 2,000 acre feet of water annually.

The appraisal report identified three basic alternatives for further analysis in the proposed feasibility study. These include recharging urban storm water runoff, extracting excess water flooding the Copper Queen Mine to the West in Bisbee, Arizona, and recharging that water near the conservation area and extending Central Arizona Project water to the Sierra Vista subwatershed.

The partnership anticipates that the feasibility study will identify the best alternative to pursue future construction and implementation. The Partnership stands ready to assist its Federal partners via technical and scientific expertise and matching in-kind in financial resources in order to perform this feasibility study, helping us to preserve and protect these two vital, federally owned treasurers.

I thank you, Mr. Chairman, for the opportunity to address you today. Thank you, Senator Kyl, for preparing this bill on our behalf. I am prepared to answer your questions at this time.

[The prepared statement of Mr. Potucek follows:]

PREPARED STATEMENT OF CHARLES POTUCEK, CITY MANAGER, SIERRA VISTA, AZ

The Honorable Chairman and Distinguished Members of the Subcommittee: My name is Charles Potucek and I serve as the city manager for the City of Sierra

Vista, Arizona, a city of 44,000 located in Cochise County in Southeastern Arizona and home to the Fort Huachuca Military Installation.

Today I am representing the Upper San Pedro Partnership (USPP), a consortium of 21 federal, state and local governmental entities, non-governmental organizations and private companies. The USPP strives to ensure that we meet the long-term groundwater needs of both the residents of the Sierra Vista Sub-watershed as well as the Upper San Pedro River.

Congress formally recognized the USPP through Public Law 108-136, Section 321 in 2003 and requires us to report its progress to them on an annual basis. (Attachment A)*

We recently learned that USPP is the recipient of the U.S. Department of the Interior's Cooperative Conservation Award.

The Sierra Vista Subwatershed contains two important federal treasures—Fort Huachuca, administered by the Department of Defense (DoD) and the San Pedro Riparian National Conservation Area (SPRNCA), designated by Congress in 1988 (Public Law 100-696) and administered by the Department of the Interior (DoI), Bureau of Land Management.

Fort Huachuca houses the U.S. Army Intelligence Center, the U.S. Army Network Enterprise Technology Command/ 9th Army Signal Command, the U.S. Army Information Systems Engineering Command, the Joint Interoperability Test Command, the Electronic Providing Ground, the Intelligence and Electronic Warfare Testing Directorate, and the U.S. Army Communications Electronics Command Communications Security Logistics Activity.

The SPRNCA supports approximately four hundred avian species, 81 mammalian species, 43 species of reptiles and amphibians, and serves as primary migratory bird corridor. Also of extreme importance, the SPRNCA provides critical habitat to the endangered Huachuca water umbel requiring Fort Huachuca to seek a biological opinion (BO) from the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act of 1973 in June of 2007 (Attachment B).* Protection of that critical habitat by Fort Huachuca as published in the BO will ensure that Fort Huachuca can continue to perform its critical missions without jeopardizing the endangered species found in the SPRNCA.

The USPP established three fundamental strategies in order to achieve its goal. The strategies include reducing consumption (conservation), reclaiming effluent and reusing or recharging it, and augmenting existing water resources through improved rainfall harvesting and the importation of additional ones.

The Sierra Vista Sub-watershed Feasibility Study Act (S.1929) speaks to the third strategy and allows the USPP to proceed to the second phase of the augmentation project. The DoI's Bureau of Reclamation (BOR) performed a required appraisal report titled "Augmentation Alternatives for the Sierra Vista Sub-watershed, Arizona" in June of 2007, completing the first phase of the process (Attachment C).*

The USPP values BOR's contributions. In fact, BOR provided $1.5 million through a cooperative agreement with the City of Sierra Vista towards the construction of Sierra Vista's Environmental Operations Park (EOP) that began operations in 2001. The EOP recharges high-quality treated effluent into the ground in order to protect the SPRNCA from the effects of groundwater pumping from the more densely populated areas of the sub-watershed. It remains the largest single and most effective water reclamation project in the sub-watershed, recharging more than 2000 acre feet of water annually.

The appraisal report identified three basic alternatives for further analysis in the proposed feasibility study. These include recharging urban storm-water runoff near the SPRNCA, extracting excess water flooding the Copper Queen Mine to the west near Bisbee, Arizona, and recharging the water near the SPRNCA, and extending the Central Arizona Project (CAP) water to the Sierra Vista Sub-watershed. The USPP anticipates that the feasibility study will identify the best alternative to pursue for future construction and implementation. The selected project will significantly contribute to the stated goals of the USPP.

The USPP stands ready to assist its federal partners via technical and scientific expertise, and matching in-kind and financial resources in order to perform this feasibility study, helping us to preserve and protect these two vital federally owned treasures.

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*Attachment A can be found at www.usppartnership.com/docs/Sec3212006Rept907Hill(2).pdf.

Attachment B can be found at http://www.fws.gov/southwest/es/arizona/Documents/Biol__Opin/070132__FortHuachucaFINAL.pdf.

Attachment C can be found at http://www.usbr.gov/lc/phoenix/reports/sierravista/Finalnoapps.pdf.

I thank you, Mr. Chairman, and the distinguished members of the Subcommittee on Energy and Natural Resources for the opportunity to address you today and I am prepared to answer your questions at this time.

Senator JOHNSON. Thank you, Mr. Potucek.

For Mayor Cornett, your testimony talks about the need for maintaining and replacing aging facilities that are part of the McGee Creek Project.

Mr. Cornett, I have a two-part question. What is the overall condition of the project, and does the BOR have any ongoing responsibilities to maintain or rehabilitate the facilities? Will the title transfer sought in the legislation result in any changed operations of the project?

Mr. CORNETT. There are some ongoing needs and capital projects that the trust will be paying for. The Federal Government will have no additional responsibilities. We see, really, no downside of the Federal Government, no additional responsibilities that they will have long-term.

We are accepting and acknowledging that we have some capital projects to create. What we'd really to do is just try to get rid of some of the paperwork and the bureaucracy that's created by having to go through the Federal Government to get permission to work on these types of projects.

Senator JOHNSON. Thank you, Mayor Cornett.

Mr. Janzen, as you note in your testimony, the bill declares the project is feasible and authorizes Reclamation to assist with its design and construction. Based on the amount of studies and work you've referenced, is design of the project essentially complete and ready to proceed to the construction phase? If so, how long will it take to complete construction?

Mr. JANZEN. We are starting to deliver water there through our facilities. The biggest—but we have not started any construction on an extraction part of it. We can deliver water there at the present time. What will have to be constructed is—we're going to have to enlarge some of the canals bringing water to there, because it is at the end of our system, and the canals keep getting smaller as it gets there, because we were serving farmers upstream from there.

So, as part of delivery and extraction, we will need to reconstruct some of the canals. In large dams, there will be pumps to pump it back upstream in these canals during extraction, so that we get the water back up into the district to where the farmers are, so that we can then let it run downhill through the canals to the farmers that we serve. We're ready to start that at this time.

Senator JOHNSON. Yes. Thank you, Mr. Janzen.

Mr. Rossi, the Riverside Corona Bill authorized a 25 percent cost-share for the project, not to exceed $50 million, which means that the overall costs must be in the range of $200 million. You note that the District has received $4.9 million from the State of California.

How will the balance of the project be financed? What are the implications of this if this legislation is not enacted?

Mr. ROSSI. Mr. Chairman, the approximately $200 million project, was with $50 million of Federal shares, as you said. The remainder amount of that financing will come from local user fi-

nanced water rates from a number of cities and water districts, we mentioned in the 525-square-mile area.

Given the tremendous growth, a large portion of that, more than 50 percent, will come from the development of the homes through leader connection fees, as well.

Senator JOHNSON. What are the implications of this legislation not being enacted?

Mr. ROSSI. It will make a very significant—make it very difficult for us to get the project going and moving forward, given the amount of—this project is dependent on growth over the next 20 or 30 years. So by getting the funding online, we'll be able to start moving with the project now. If not, we think the project will be delayed for a number of years.

Senator JOHNSON. Thank you, Mr. Rossi. Mr. Potucek, your testimony identifies a threefold strategy for the watershed, which includes water conservation, reclaiming effluent, and supply augmentation.

What has been accomplished in the region through water conservation activities? Is that the most cost-effective strategy? Is there more that can be done as part of the water conservation strategy?

Mr. POTUCEK. Mr. Chairman, water conservation is a key component of all the strategies that we employ in the Sierra Vista Subwatershed. Primary examples of water conservation projects include, for example, the city of Sierra Vista's toilet rebate program, in which we rebate residents $100 for the replacement of old, large-flush toilets for water conservation-saving devices.

Fort Huachuca, itself, has reduced groundwater pumping dramatically over the last 5 or 6 years. In Sierra Vista, itself, we've been able to stabilize and reduce our gallons per capita used per day by the residents there through a variety of strategies, to include rebates, to include water conservation ordinances, to include public education programs.

So it's an ongoing effort. We have to use that plus our Reclamation strategy. I mentioned our Environmental Operations Park, which is a very significant contributor to our overall effort. But we also need water augmentation strategies, such as the ones I described in my testimony, because we need the combination of all three to be able to meet our goals under the biological opinion that Fort Huachuca is under.

So we need all three strategies. Yes, water conservation is the most cost effective, but will not get us there by itself.

Senator JOHNSON. I have no additional questions. Thanks to each of you for your willingness to travel here today and provide the subcommittee your views on the legislation before us.

For the information of Senators and their staff, questions for the record are due by close of business tomorrow. With that, this hearing is adjourned.

[Whereupon, at 2:55 p.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Questions

RESPONSES OF THE DEPARTMENT OF THE INTERIOR TO QUESTIONS FROM SENATOR JOHNSON

Question 1. S. 1474 / H.R. 1139 - Has Reclamation reviewed studies prepared by the Western Municipal Water District related to the Riverside-Corona Feeder Project? If so, what additional work is necessary to provide the detail and analysis necessary for Reclamation to assess feasibility under its criteria?

Answer. Reclamation, through its Southern California Area Office, has reviewed studies prepared by Western Municipal Water District (WMWD) on this and other projects. In the FY 2006 appropriation for the Southern California Investigations Program, Congress provided $100,000 to assist with the general planning and environmental compliance for the Riverside-Corona Feeder Project. Reclamation has executed a contract to complete the requirements for compliance with the National Environmental Policy Act. This work has been held up due to changes in the pipeline alignment. Work will resume as soon as the alignment has been confirmed. Reclamation is working with the WMWD to define the best use of the FY 2008 funds.

Question 2. S.1473/H.R. 1855 - At the hearing, Mr. Janzen represented that the Madera Water Supply Project would help address the water management goals sought as part of the San Joaquin settlement. Does Reclamation agree with that assessment? If so, where does the Madera Water Supply Project fall with respect to the priorities for water management options in the San Joaquin basin?

Answer. Further analysis and coordination with the beneficiaries are needed before that determination can be made. It is important to note that all of the necessary background work has not been completed on this project. Therefore, in terms of priority, until we complete the feasibility level analysis of this project, we cannot fully assess its proper place in serving water users in the basin.

Question 3a. S. 1929 - Reclamation has already completed an appraisal-level study on three basic water augmentation alternatives in the Sierra Vista watershed. Can you provide an estimated cost for each of the alternatives?

Answer. In June 2007, Reclamation completed an appraisal study that identified 14 augmentation alternatives. The Upper San Pedro Partnership (USPP) selected three projects for further investigation. The three alternatives and the respective cost estimates are the following:

(1) Bringing Central Arizona Project water to Sierra Vista

a. Cost estimates vary widely depending on the specifics (quantity of water and treatment):

i. Capital costs - $158 million - $408 million
ii. O&M costs - $16.21 million - $37.33 million per year
iii. Total Annual Project Costs - $27.85 million - $64.69 million

(2) Capturing and recharging stormwater

a. Cost estimates:

i. Capital Costs - $51.73 to $61.16 million
ii. O&M Costs - $280,000 to $310,000 per year
iii. Total Annual Project Cost - $4.09 to $4.81 million

(3) Reclamation and reuse of impaired mine water

a. This alternative was introduced late in the process, so a cost estimate was not calculated. This alternative is a middle ground between two other related alternatives, so this estimate is based on the averages of the costs associated with those alternatives:

i. Capital Costs - $45 million
ii. O&M Costs - $1.33 million per year
iii. Total Annual Project Cost - $4.75 million

Question 3b. What does your testimony mean when it states that "[o]nly the CAP to Sierra Vista alternative completely addresses the Partnership's goal for augmentation"?

Answer. In 2004, Section 321 of the National Defense Authorization Act formally recognized the USPP and directed it to prepare annual reports on progress toward the goal of "sustainable yield" by September 30, 2011. In order to reach this goal, projects must be identified to yield an estimated 11,000 acre-feet by 2011 and 26,000 acre-feet per year by the year 2050. Of the alternatives, the CAP to Sierra Vista alternative is the only one that will achieve that goal. It should be noted, however, that the Partnership, which consists of representatives from Federal, state, and local governments and other stakeholders has no legal authority to construct, operate, and repay capital costs. Reclamation cannot legally contract with the partnership.

Question 4a. S.2370 - Your testimony states that there has not been any excess-lands determination for the properties that are the subject of S. 2370, and that there has not been an appraisal of lands. Is Reclamation suggesting that it should be paid for disclaiming its interests in Tingley Beach or San Gabriel Park?

Answer. The United States has not relinquished its interest in parcels specified in the legislation. On November 25, 1997, Middle Rio Grande Conservancy District (MRGCD) and the City of Albuquerque (City) entered into a real estate sales agreement through which the MRGCD sold the City approximately 65 acres of land associated with San Gabriel Park and Tingley Beach for $3,875,000.

Reclamation's initial determination with regard to the properties identified was that they were excess to the Project needs. However, the determination of "surplus" to the United States is outside of Reclamation's jurisdiction. Decisions involving the disposal of acquired federal surplus lands, unless otherwise authorized by specific legislation, must follow Sec. 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541), and are made by the General Services Administration.

In general, the Federal government does not support transfers of title to Federal property when those transfers circumvent existing procedures.

Question 4b. In 1998, didn't Reclamation propose releasing any interest it had in Tingley Beach or San Gabriel Park for $1.00? As part of that analysis, didn't Reclamation determine that Tingley Beach or San Gabriel Park were surplus to the needs of the Middle Rio Grande Project?

Answer. The United States has not relinquished its interest in parcels specified in the legislation. On November 25, 1997, Middle Rio Grande Conservancy District (MRGCD) and the City of Albuquerque (City) entered into a real estate sales agreement through which the MRGCD sold the City approximately 65 acres of land associated with San Gabriel Park and Tingley Beach for $3,875,000. Reclamation did determine these parcels are in excess to the Project, release was proposed to involve an estate held in easement. Subsequent research by the United States concluded that the lands involved in the Sales Agreement were in fact held in fee title and would therefore require disposal under Sec 203 of the Federal Property and Administrative Services Act of 1949, which is conducted by the General Services Administration.

Question 5a. H.R. 2381 - What work plan is being implemented to fulfill the requirements of the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998? What resources has USGS committed over the last 4 years for this effort? What is the budget request for FY 2009?

Answer. The Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 called for a national assessment of the causes and consequences of coastal hypoxia, a region-specific assessment of the causes and consequences of hypoxia in the northern Gulf of Mexico, including establishment of a Gulf Task Force, and development of an Action Plan to address Gulf hypoxia. Since enactment, the U.S. Geological Survey (USGS) participated in development of the national hypoxia assessment, titled "An Assessment of Coastal Hypoxia and Eutrophication in U.S. Waters" (CENR, 2003). USGS contributed to and participated in activities of the Mississippi River/Gulf of Mexico Watershed Nutrient (Gulf of Mexico Hypoxia) Task Force that led to the following Task Force publications:

1) "Flux and Sources of Nutrients in the Mississippi-Atchafalaya River Basin: Topic 3 Report for the Integrated Assessment on Hypoxia in the Gulf of Mexico (Goolsby, 1999);

2) "Hypoxia in the Northern Gulf of Mexico: An Integrated Assessment" (CENR, 2000), an integrated science assessment used as a basis for the Action Plan;

3) "Action Plan for Reducing, Mitigating, and Controlling Hypoxia in the Northern Gulf of Mexico", the Action Plan identified in the statute; and

4) "A Science Strategy to Support Management Decisions Related to Hypoxia in the Northern Gulf of Mexico and Excess Nutrients in the Mississippi River Basin" (USGS Circular 1270, 2004), which identified, and provided a plan for development of, the scientific information upon which management actions could be adapted.

At this time, USGS is also working with NOAA and others on a new national hypoxia assessment report expected to be drafted in 2008 and completed by early 2009. USGS has participated in the development of a new science assessment and development of an updated Action Plan for Gulf of Mexico hypoxia, accessible on the Internet at: http://www.epa.gov/msbasin/taskforce/pdf/2008draft_actionplan.pdf

In addition to the Gulf of Mexico Hypoxia Task Force, USGS participates in other ocean-related activities through the Joint Subcommittee on Ocean Science and Technology (e.g., the Interagency Work Group on Hypoxia). USGS also continues to monitor water-quality conditions within the Mississippi River basin and on a limited basis for other watersheds around the nation that discharge to coastal estuaries. For example, USGS has long-term monitoring stations funded through the National Water Quality Assessment Program (NAWQA) and the National Stream Quality Accounting Network (NASQAN) where samples are collected to determine:

1. Concentrations and loads of nitrogen, phosphorus, carbon, silica, dissolved solids, selected pesticides, and suspended-sediment to coastal waters of the U.S., and

2. Changes in concentrations and loads of these constituents through time.

Specific objectives for the Mississippi River Basin are to determine:

1. Seasonal loads of total and dissolved nutrients from the Mississippi River Basin to the Gulf of Mexico,

2. Concentrations and loads of constituents in major sub-basins within the Mississippi River Basin, and

3. Changes in concentrations and loads of constituents through time in major sub-basins of Mississippi River Basin.

On an annual basis USGS reports the loads of nutrients delivered to the Gulf of Mexico to support model estimates of expected hypoxia extent, and for additional research. On a longer-term basis (about every 5 years), USGS publishes interpretations of trends in coastal delivery (Aulenbach et al., 2007).

USGS also, in cooperation with the U.S. Army Corps of Engineers and the five upper Mississippi River Basin States (Minnesota, Wisconsin, Iowa, Illinois, and Missouri), operates the Long Term Resource Monitoring Program (LTRMP, http://www.umesc.usgs.gov/ltrmp.html). The monitoring system encompasses the commercially navigable reaches of the Upper Mississippi River (UMR), as well as the Illinois River and navigable portions of the Kaskaskia, Black, St. Croix, and Minnesota Rivers. The LTRMP provides decision makers with the information needed to maintain the Upper Mississippi River System as a viable multiple-use large river ecosystem, and LTRMP collects water quality, fish, vegetation, and macroinvertebrate data.

USGS is using its Spatially Referenced Regressions on Watershed Attributes (SPARROW, http://water.usgs.gov/nawqa/sparrow/) model to support identification of contributing land use activities and geographic areas for nutrients transported to the Gulf of Mexico. In addition, the NAWQA program is supporting development of a regional SPARROW model in the upper Mississippi River Basin based on historical monitoring data, which entails the evaluation and addition of other federal, state and non-governmental water-quality data bases to increase the amount of water-quality data that can be used to describe the condition of streams in the basin.

On a broader basis, the SPARROW model is being used to identify sources of nutrients in the entire Mississippi River Basin. Information about nutrients and data available in the Mississippi Basin are available on the web at the USGS site http://toxics.usgs.gov/hypoxia/index.html and on the EPA Gulf of Mexico Hypoxia Task Force site, at http://www.epa.gov/msbasin/index.htm.

Resources USGS commits to these efforts are primarily part of the NASQAN funding and some funding for the National Monitoring Network (NMN) that was designed in collaboration with the Advisory Committee on Water Information. The NMN has a focus of monitoring rivers that discharge to coastal water bodies, and thus complements NASQAN activities. Together, NASQAN and NMN monitor streamflow and loads of selected chemicals at the mouth of the 18 largest (in terms of streamflow and nutrient loads) rivers draining to U.S. coastal waters, and 19 additional stations within the Mississippi River Basin that monitor the source origins of streamflow and nutrients. USGS also contributes staff time to analyze data, report on loads, and generate reports. Annually, the amount has been about $2 million per year, but with the NMN efforts starting in FY 2008, the amount is about $3 million. In FY 2009, USGS expects the level of activities for NASQAN, LTRMP, and NMN to be similar to previous years.

Question 5b. Your testimony notes that H.R. 2381 "describes a program consistent with current USGS activities"? What activities of H.R. 2381 are currently being carried out, and what activities in the bill are not being carried out?

Answer. The current surface water quality monitoring activities under the NAWQA, NASQAN, LTRMP, and NMN are using methods and approaches for monitoring and analysis that would be applicable to the requirements of HR 2381. Thus HR 2381 would not require new methods or approaches to assessment.

Requirements of HR 2381 that are not a current focus of USGS activities include 1) a specific focus on monitoring in the upper Mississippi River Basin (MSRB) at the level provided in the bill, and 2) the inclusion of modeling sources for both sediments and nutrients from the upper Basin. Currently, for impacts to the Gulf of Mexico, USGS monitors on a much broader scale and the focus is on nutrients. Even when the regional SPARROW model is developed, its general focus will be for identification of nutrient sources, not sediment sources. To adjust the current USGS efforts and accommodate the provisions of HR 2381, more river locations would have to be monitored within the upper MSRB so that source locations can be identified. Accomplishing the sediment monitoring and modeling effort would require more frequent monitoring than is presently done in monitored areas within the upper MSRB. Both of these activities would require additional budgetary resources and would be subject to the normal budget and priority setting process.

Aulenbach et al., 2007, Streamflow and Nutrient Fluxes of the Mississippi-Atchafalaya River Basin and Subbasins for the Period of Record Through 2005: http://toxics.usgs.gov/pubs/of-2007-1080/

CENR, 2000, Hypoxia in the Northern Gulf of Mexico: An Integrated Assessmenthttp://oceanservice.noaa.gov/products/hypox__final.pdf

CENR, 2003, Assessment of Coastal Hypoxia and Eutrophication in U.S. Waters: http://www.eutro.org/documents/HABHRCA%20hypoxia.pdf

Goolsby et al., 1999, Flux and Sources of Nutrients in the Mississippi-Atchafalaya River Basin: Topic 3 Report for the Integrated Assessment on Hypoxia in the Gulf of Mexico: NOAA Coastal Ocean Program Decision Analysis Series, No. 17, http://oceanservice.noaa.gov/products/pubs__hypox.html#Topic3

Mississippi River/Gulf of Mexico Watershed Nutrient Task Force, 2001, Action Plan for Reducing, Mitigating, and Controlling Hypoxia in the Northern Gulf of Mexico:http://www.epa.gov/msbasin/taskforce/pdf/actionplan.pdf

USGS Circular 1270, 2004, A Science Strategy to Support Management Decisions Related to Hypoxia in the Northern Gulf of Mexico and Excess Nutrients in the Mississippi River Basin:http://pubs.usgs.gov/circ/2004/1270/

APPENDIX II

Additional Material Submitted for the Record

STATEMENT OF MARTIN J. CHAVEZ, MAYOR, CITY OF ALBUQUERQUE, NM, ON S. 2370

After an extended number of outright lies at a number of levels at the Department of the Interior, the City of Albuquerque again respectfully seeks to clear title to its Bio Park property.

I must say that despite the now repeated pattern of having the proverbial football pulled out from in front of our foot, I am nonetheless stunned to learn that the Bureau of Reclamation has filed a statement in opposition. I was personally assured by then Secretary of the Interior Norton (who apologizes for the Bureau of Reclamation) and her representatives that Interior and Reclamation would not oppose this legislation. Indeed, this legislation was proposed and initiated by the Bureau of Reclamation.

Yet each time the corrective legislation it is introduced, Reclamation submits a statement in opposition, effectively killing the legislation. We feel like Charlie Brown falling for big sister Lucy's trick yet again.

The Bio Park is a jewel of the City of Albuquerque. It contains zoological and botanical gardens, an aquarium, parks and other recreational features along the banks of the Rio Grande. The property is located in one of the oldest parts of a city that itself is over three hundred years old.

November 25, 1997, after leasing the lands from the Middle Rio Grande Conservancy District (MRGCD) for close to thirty years, the City purchased a significant portion of the Bio Park lands from MRGCD (for about $4 million). The City was issued title insurance during the transaction which did not reflect any clouds on the title to the property. For the leasehold, the consent of the Bureau of Reclamation was sought and obtained because Reclamation had an "easement" across the lands. At the time of the 1997 purchase, Reclamation gave no indication that it asserted or might assert an ownership interest in the Bio Park lands. Rather, the Bureau's concerns were with the Rio Grande and a handful of canals nearby and the Silvery Minnow.

Subsequently, the City sought a release of the Reclamation easement. An archeologist at Reclamation was requested to approve the proposed release. She, Signa Laralde, advised Ted Pearson, Deputy City Attorney, that Reclamation asserted actual ownership to the lands. As a result, Mr. Pearson placed the City's title company on notice. The City began its efforts to resolve Reclamation's claims. These efforts included the Mayor (myself) and other City officials traveling to Washington to meet with the Secretary of Interior and others regarding Bureau of Reclamation's claims. At that time, Secretary Norton apologized for the actions of her Bureau of Reclamation and assured me that the Department of Interior would not oppose the special legislation to clear title. I returned from Washington believing the problem solved. I left office as the City's mayor.

This brings us to 2005 when I am once again mayor of the City of Albuquerque. MRGCD and the United States Bureau of Reclamation are disputing the ownership of lands that the MRGCD regard as conservancy district property. Litigation followed as a part of the so-called Silvery Minnow suit.

Because maps and legal descriptions of the area have changed over the years, some boundaries are vague. For example, early descriptions were typical of the time, referring to landmarks. By the mid-20th century, conservancy district maps were in common use. As the area grew and development increased, areas were platted and replatted, occasionally giving rise to confusion such as "which Lot 2-A do you mean?"

At the time of the 2005 litigation, I learned that, due to Reclamation's actions, the legislation had not passed and that Reclamation still raised issues regarding its purported ownership to the City's Bio Park. Consequently, the City intervened in

the quiet title proceedings initiated by the MRGCD which were a component of a larger federal court proceeding.

Meanwhile, the New Mexico Congressional delegation, both Republicans and Democrats, introduced a new bill to direct Reclamation to issue a quit claim of the Bio Park lands to the City. The legislation passed the Senate quickly; however, at the House committee hearing, on September 27, 2005, Jack Garner, Acting Deputy Commissioner and Deputy Director of Operations Bureau of Reclamation, submitted a statement in opposition to the bill. The bill died without further action.

Director of Operations, Mr. Quint, misrepresents the current state of affairs:

- Representatives of the Reclamation's Albuquerque office cooperated with the City in providing the legal description to the Congressional staff for insertion in the bill, representing they supported clearing title to the Bio Park. Those employees were surprised to learn of Mr. Quint's Statement in opposition.
- No litigation is pending involving the land which is the subject of this legislation. The appellate proceeding referenced by Mr. Quint does not involve the Bio Park. In March of 2006, on behalf of the Bureau of Reclamation, the United States Department of Justice, Environmental and Natural Resources Division, in case number 05-2315 (the silvery minnow case), filed a motion with the United States 10th Circuit Court of Appeals in which the DOJ attorney stated:

> Nor has the United States sought to client title in either Tingley Beach or San Gabriel Park, either in this litigation or any other litigation. Most important, neither the district court's opinion nor judgment on MRGCD'S cross-claims purport to adjudicate the interest of the United States or the City in any property in which the City claims ownership. (Add G, H) [R. 665, 666]. Thus the district court's judgment does not have res judicata effect on the title of any property in which the City claims ownership, including Tingley Beach and San Gabriel Park.

As a result of the motion by the DOJ and the concurring motion of the City in reliance on the DOJ's representations, the 10th Circuit appeal involving the City's Bio Park lands was dismissed.

The Bureau of Reclamation maintains it is not presently asserting ownership to the City's Bio Park lands. It has refused to acknowledge that it never will assert such ownership; in fact, it reserves that right. This refusal by the Reclamation to concede that it has no ownership interest in the City's Bio Park causes the City great concern.

The City wishes to continue to improve its Bio Park without the slightest risk or threat that the Bureau of Reclamation will assert ownership at some point in the future. The City earnestly desires this matter be resolved once and for all. The City seeks to have its title cleared and to have Reclamation emphatically state by way of a quit claim deed that it has no interest in these lands.

The City respectfully requests that the Congress approve by this legislation a directive to the Bureau of Reclamation to issue a quitclaim to the property described in the bill, ending this issue once and for all, and thereby assuring the Citizens of the City of Albuquerque that its Bio Park is truly theirs, removing all clouds on the title.

Mr. Chairman, I am happy to respond to any questions that the Committee may have.

STATEMENT OF BARRY DRAZKOWSKI, EXECUTIVE DIRECTOR, GEOSPATIAL SERVICES, SAINT MARY'S UNIVERSITY OF MINNESOTA, ON H.R. 2381

Good afternoon. Thank you, Chairman Johnson and Members of the Subcommittee, for this opportunity to submit this testimony in support of H.R. 2381. My name is Barry Drazkowski and I am Executive Director of GeoSpatial Services, at Saint Mary's University of Minnesota, on the Mississippi River in Winona, Minnesota. I am proud to be the coauthor, with Mr. Rory Vose, of the Upper Mississippi Basin Stewardship Initiative, which is the basis for H.R. 2381, the Upper Mississippi River Basin Protection Act. We collaborated with the Upper Basin's major agricultural organizations, Federal and State Agencies, and non government conservation organizations. The principles and components of the Initiative reflect the unanimous support of those organizations. This Bill represents the monitoring and assessment portion of the Stewardship Initiative. I was Deputy Director of the Department of Interior and U.S. Army Corps of Engineer's Upper Mississippi River Long Term Resource Monitoring Program and developed intimate knowledge of the water quality, nutrient, habitat, and management issues facing the Upper Mississippi Basin. Over the past eleven years I developed Saint Mary's University's

GeoSpatial Services. I am proud of our achievement of mapping over 100 million acres of wetlands for the Fish and Wildlife Service, the National Park Service, and numerous States resource agencies. We also achieved preferred contractor status for BP Pipelines and Logistics of North America in support of their safety and integrity and database development operations. I formed and implemented the Upper Mississippi River Stakeholder Network as the Stewardship Initiative's public outreach and coordination component, and published the Mississippi Monitor, a conservation advocacy newspaper distributed to over 10,000 subscribers across the Upper Basin and Washington D.C. Finally, I live on a small farm in the rugged bluff country of western Wisconsin and see first hand the impact sediment and nutrients have on our quality streams and Mississippi River ecosystem. I am pleased to offer the following comments regarding the Upper Mississippi River Basin Protection Act (H.R. 2381).

OVERVIEW

My career experiences working both as a researcher, manager, and conservation advocate on the Mississippi River Basin's water quality, nutrient, habitat, and watershed resources are reflected in my strong and enthusiastic support for the Upper Mississippi River Basin Protection Act (H.R. 2381). I commend Representatives Ron Kind, Tim Walz, and their House colleagues in addressing the basin's water resource needs and their commitment to providing sound scientific data upon which to make future resource management decisions. I have worked closely with the sponsors of H.R. 2381 on previous versions of the legislation including H.R. 4013 in the 106th Congress, H.R. 1800 and H.R. 3480 in the 107th Congress, and H.R. 2381 in the 108th Congress. The fact that this legislation has been introduced in four Congressional sessions and undergone numerous changes in response to suggestions from both state and federal water agencies, as well as stakeholders in the basin, is testimony to the tenacity and patience of its sponsors and the significance of its programs. I am hopeful that this Senate hearing marks the final leg of the journey to enactment of H.R. 2381.

THE IMPORTANCE OF MONITORING AND MODELING

Both sediment and nutrients have a profound affect on the quality of lakes, rivers, and streams throughout the Upper Mississippi River Basin. Sediment fills in valuable wetlands and streams throughout the basin, as well as the unique backwater habitats and navigation channel of the Mississippi River. Excess nutrients degrade water quality, impairing rivers and streams and threatening ground water supplies. In addition, excess nutrients from the Mississippi River Basin have been linked to oxygen depletion in the Gulf of Mexico, resulting in what is known as Gulf hypoxia. Nutrients and sediment originate across the broad expanse of the Upper Mississippi River Basin. They are the by product of seventy years of Federal agriculture policy and basin land use. They are the principle target and/or consequence in our multi billion dollar Farm Bill. They are also the target of the multi billion dollar Mississippi River Navigation and Environmental Sustainability Program. However, both programs fail to address value of understanding the fate and consequences of sediment and nutrients from the time they leave agricultural areas to the time they arrive in the Mississippi River. Understanding sediment and nutrient transport, processing, and consequences provides Federal and State managers the ability to significantly improve the management and deployment of Federal agriculture and wetland programs and the implementation of sediment and nutrient remediation programs within the Mississippi River. These multi billion dollar programs will realize substantial efficiency in meeting their Federal objectives through this Bill. The monitoring and modeling program authorized in H.R. 2381 is not a scientific luxury; it is a management imperative. The data and information resulting from these efforts will help guide federal, state, and local programs designed to solve the very real problems of water quality and habitat degradation. Targeting our efforts to restore wetlands, reduce nonpoint pollution, and help agricultural producers apply best management practices, depends on good scientific data.

The need for enhanced sediment and nutrient monitoring in the Upper Mississippi River Basin is widely recognized. In the January 2001 "Action Plan for Reducing, Mitigating, and Controlling Hypoxia in the Northern Gulf of Mexico," state and federal agencies participating in the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force called for "increasing the scale and frequency of monitoring of both the extent of the hypoxic zone and the sources of nutrients and conditions of waters throughout the basin." In an October 23, 2001 letter to Bush Administration officials, six Governors of Mississippi River Basin states urged that federal programs to reduce nutrient inputs be enhanced. In this regard, the Governors stated

that a "monitoring effort conducted jointly by the U.S. Geological Survey and the states is required within the basin to determine the water quality effects of the actions taken and to measure the success of efforts on a sub-basin and project level." H.R. 2381 reflects just the type of increased monitoring effort that has been proposed by both the Task Force and the Governors.

SPECIFIC COMMENTS ON H.R. 2381

- Sediment and Nutrient Monitoring.—The monitoring network and modeling efforts described in H.R. 2381 are designed to address both sediment and nutrients. However, the sources, transport, delivery, and impacts of sediment and nutrients are not identical and will require different monitoring and modeling approaches. Moreover, there are natural baseline levels of sediment and nutrients that would occur without human activity. For many water bodies in the basin, acceptable levels of sediment and nutrient impairment have not been identified. While it may not be necessary for the legislation to explicitly acknowledge or accommodate these considerations, they will be critical in the design of the monitoring network and in development of the models. Developing and maintaining the database supporting both this important monitoring effort and implementation of Federal programs affecting sediment and nutrient production is critical to successfully implementing this effort and to realize the full value of the multi billions of dollars spent on Federal agricultural programs. This database as described in Section 102 is a critical bill component. This data must both be available and integrated into existing agricultural and wetland program deployment and management to realize Federal nutrient and sediment management objectives. Creating this system is not a trivial task as realized by the Great Lakes Commission in their struggle with this data issue. It will take a concerted effort on the part of the USGS to develop a system that effectively meets this very important objective. However, it is of equal importance and added difficulty, to realize this objective while recognizing and maintaining the privacy rights of land owners. This Bill should not result in the unintended consequences of creating Federal regulatory actions through its data availability. The data should be protected and guarded to guarantee the privacy of Upper Mississippi River Basin landowners. Federal privacy Codes must be evaluated to insure they provide this protection and that USGS can build a data management system that achieves the difficult task of protecting privacy, yet realizing the core objective of targeting problematic sediment and nutrient producing watersheds with appropriate Federal remediation programs. In part, this is why Section 104 of the bill is a key provision. Section 104 requires that USGS collaborate with other federal agencies, states, tribes, local units of government, and private interests in establishing the monitoring network. Such collaboration should help ensure that the design of the monitoring network yields information relevant to both sediment and nutrient management issues. I strongly recommend that the USGS develop partnerships with academic organizations to both insure scientific integrity and to provide a vehicle for protecting data privacy.
- Relationship to Existing Efforts.—Sections 103 and 104 require that USGS coordinate with other agencies and programs and build upon existing monitoring efforts. Such provisions are critical to the ultimate success of the new monitoring and modeling initiatives authorized in H.R. 2381. For example, it is important that a basin-wide monitoring network be linked to on-going work in the basin's tributary watersheds, such as the sediment transport modeling in the Illinois river watershed, the Minnesota river watershed, and the developing number of State/local partnership intent on addressing local watershed sediment and nutrient problems. It is our expectation that the monitoring network and modeling activities authorized in H.R. 2381 be designed and implemented consistent with and building on these important local initiatives.
- Computer Modeling and Research and Electronic Information Dissemination.—Sections 201 and 202 are the heart and soul to realizing and understanding the transport and fate of the Basin's sediment and nutrients. It is the mechanism through which Federal and State programs will target watershed management, wetland restoration, and Farm Bill Energy and Conservation title programs to realize nutrient and sediment impact reduction. The USGS will be challenged to create and electronically distribute this information to the appropriate Federal and State management programs, while maintaining landowner privacy as guaranteed in Section 102. I strongly recommend that USGS consider utilizing existing Upper Basin university-based capacity to assist in the modeling and information dissemination responsibilities to achieve the intended benefits, imple-

ment the program in a cost effective manner, and build on existing infrastructure reducing the need to build new Federal infrastructure and costs.

- Additional New Funding.—Section 301 of H.R. 2381 authorizes annual appropriations of $6.25 million for this new monitoring and modeling effort. I strongly recommend that the Senate consider increasing this appropriation to $10 million. The scale of collaboration, monitoring, and modeling and the importance this initiative has to the multi billion dollar agriculture and Mississippi River program, seems to logically justify an increase in the appropriation to insure Federal interests are served in its implementation. It is equally important that this funding represent additional new resources, rather than a redirection of existing Federal resources. H.R. 2381 emphasizes integration of existing monitoring efforts and use of existing data, a strategy that will certainly help to leverage scarce resources. However, integration of existing efforts is not a substitute for a real increase in the level of effort. And most importantly, this increased effort must not come at the expense of other important USGS programs such as the National Water Quality Assessment Program (NAWQA) or the National Stream flow Information Program (NSIP). In particular, stream gauging supported by NSIP provides flow data that will be critical to successfully monitoring and modeling sediment and nutrient loads. We cannot afford to lose any of that stream flow data, and in fact will likely need to increase discharge measurements.
- National Research Council Assessment.—Section 106 of H.R. 2381 directs the National Research Council of the National Academy of Sciences to conduct a "comprehensive water resources assessment of the Upper Mississippi River Basin." In the context of this legislation, it is my assumption that such an assessment would be focused on the specific water quality issues associated with sediment and nutrients and their relationship to land use watershed policies. As such, it is critical to the scoping and implementation of the monitoring and modeling authorized in H.R. 2381.

Thank you for the opportunity to share my views with you and assert my strong support for H.R. 2381.

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